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An Assessment of the 2002 National Security Strategy of the United States:
Continuity and Change

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degree of Doctor of Philosophy in Peace Studies

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An Assessment of the 2002 National Security Strategy of the United States:
Continuity and Change

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Abstract

The 2002 National Security Strategy of the US (NSS 2002) appeared to have presented a momentous approach to self-defense. To many, the doctrine of preemptive self-defense seemed to challenge the legal and political foundations of the post-World War II international order. Some saw in the US stated reliance on preemption a direct threat to the international system embodied in the UN Charter. The *prima facie* case that the US position was novel and even dangerous appeared persuasive.

This thesis attempts to assess the exceptionality of NSS 2002 in its formulation and implications. This question of exceptionality is broadly divided into two sections. The first section deals with internal exceptionality, in terms of means (the deliberation and drafting processes) and ends (the US defense posture). The second section deals with external exceptionality in the broader terms of possible consequences outside the US.

Section One begins by establishing the grounds for looking into the formulation of NSS 2002, and provides the background for that Strategy's mandated precursors. After exploring how National Security Strategy documents are conceived and framed, Section One discusses the Strategy as it was published, and examines a sampling of contemporaneous reactions to its publication. Section Two concentrates on the second part of the research question, and utilizes a thematic approach – in terms of the use of force, the international security environment, and international law. Possible consequences of the proposed US response to contemporary security challenges are considered in these three key areas.

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Is the 2002 National Security Strategy of the United States exceptional in its formulation and implications?

Preface

Introduction

My interest in the use of force, and responses to the use of force, began a number of years ago. As an undergraduate, I spent a semester on a Tibetan Studies course in India, Nepal and Tibet. As I gained a deeper understanding of the history and plight of the Tibetan nation, I pondered the seeming unwillingness of the international community to somehow right what I perceived as a clear wrong: China's invasion and annexation of Tibet. Although no simple solution presented itself, I was intrigued by the nature of the question: were there sometimes ethical and moral grounds for the international community to refrain from responding to acts of state aggression and violations of human rights? I remained interested in the interplay between justice and international order, and spent my final undergraduate year in Israel, studying and working as an intern for the Israel Section of Amnesty International. The intricacy of the Israeli-Palestinian conflict was fascinating to me, and I found myself once again gravitating towards questions to do with the quality of the "international peace and security" we strive for, as well as explanations for state action or inaction in responding to particular situations or conflicts. It was this continuing interest that led me to enroll in the Department of Peace Studies MA course at the University of Bradford. The course greatly informed my understanding of international order. My dissertation, "The Tension Between Morality and Legality in NATO's 1999 Intervention in Kosovo",

reflected my continuing interest in issues surrounding the use of force and a newfound appreciation for the importance of international law in regulating conflict and ensuring international security.

Rationale

The National Security Strategy of the US published by the Bush administration in 2002 appeared to have presented a momentous approach to self-defense, and so one deserving of investigation. To many, including this writer, the doctrine of preemptive self-defense appeared to challenge the legal and political foundations of the post-World War II international order. Some saw in the US stated reliance on preemption a direct threat to the international system embodied in the UN Charter.¹ The prima facie case that the US position was novel and even dangerous appeared persuasive. A permanent member of the UN Security Council had openly declared its intention of acting with unilateral military force against perceived threats whenever it saw fit. Further, this intention was asserted as a sovereign right of self-defense, even in the absence of an armed attack upon it.

The US is not the only state to have claimed the right to act preemptively; Israel claimed this same right when it acted in bombing a nuclear reactor in Iraq in 1981, which it claimed would have initiated a nuclear strike against Israel at some point in the future. There have been a number of similar unilateralist initiatives carried out by states. Many of these incidents did not bring about the opprobrium of the international community of states.

¹ Thomas M. Franck, "What Happens Now? The United Nations after Iraq," *American Journal of International Law* 97, no. 3 (2003).

While these preemptive initiatives were unilateral in nature, they were also case-specific. Therefore, they appeared to be of a different order than the sweeping right of preemptive self-defense laid out by the US in 2002. Thus it was not simply the use of preemption itself that drew attention, but the apparent intent to depend on preemption as a standard – rather than an exceptional – policy response.

Initially, the conception of my current research area followed on directly from the subject of my MA dissertation. I originally intended to focus my research solely on the deleterious effects that a stated US preference for preemptive self-defense would have on the integrity of international law. However as I began to explore possible structures for such a project, I realized that I was basing my thinking on two unsupported assumptions. The first was that the effects of such a stated preference would necessarily be harmful, at some point, if not immediately. The second was that in announcing a preemptive disposition, the US had introduced an *unprecedented* policy – and that this would not be difficult to establish.

This realization led me to take a step back. I refocused on a logically prior question, whether the recently published National Security Strategy of the US was exceptional – at least in part. Yet new questions continued to arise: exceptional as viewed from within the US? Exceptional to other states? Exceptional in how it had been drafted and published? Exceptional in its import or implications? It became clear to me that it would be important to look at dynamics internal to the US as well as the implications of the Strategy, since even the most careful reading of the document could not reveal how much weight to assign to ideology, bureaucratic infighting and other dynamics internal to the deliberation and drafting process.

This line of thinking delivered what became my key research question: Is the 2002 National Security Strategy of the United States exceptional in its formulation and implications? For the purposes of this thesis, "implications" is understood with regard to the asserted right of preemptive self-defense. The two-pronged structure of the question – asking if NSS 2002 is exceptional in its formulation and implications – led directly to the structure of the thesis (discussed in more detail below). The thesis focuses first on "internal exceptionality" in Section One, and then moves on to "external exceptionality" in Section Two.

It should be noted that for the purposes of this thesis, American "exceptionalism" refers to the perceived inconsistency between NSS 2002 and preceding US national security policy and/or international law. It is not used in the well-worn sense of "American Exceptionalism" as used to denote either unique standing or inevitable prominence, or in any other historical particular such as Manifest Destiny. To aid in keeping this distinction clear, the thesis favors the word "exceptionality".

As mentioned, the more US-centric, or "internal", focus of Section One was necessary to ascertain whether NSS 2002 was an aberration at odds with preceding US rhetoric and policy, or simply the result of a particular ideology unique to the administration that produced it. It was also desirable, to the extent possible, to consider whether the *process* that was used to produce NSS 2002 was itself remarkable. Section One, then, required a consideration of the US security disposition in the UN Charter era that began after World War II. While my initial concern was with what appeared to be an exceptional challenge to international law, on investigation, a detailed study of the creation of national security strategies was necessitated.

The more international, or "external", focus of Section Two turns to the implications of NSS 2002. Yet again, I found it untenable to confine evaluation of the Strategy to international legal considerations. It was not possible to adequately judge the external exceptionality of NSS 2002 *solely* in terms of international law, especially as international law itself is bounded within a political arena. This led to the thematic approach taken in Section Two. Implications are discussed in terms of the use of force, the contemporary security environment, and finally international law.

It seems self-evident that the research question is worthy of investigation since it is apparent that there is a *prima facie* case that NSS 2002 offers a fundamental challenge to the rule of law. Yet in its phrasing, the question is careful not to assume that such a challenge is an inevitable implication of the Strategy; nor does the question assume that the way in which NSS 2002 was formulated was extraordinary. What had begun as an investigation centered almost exclusively on how state practice could damage international law had evolved, or been reduced, to a more basic question – but a question that remained nuanced and complex, all the same.

Contextually, it was important to consider the prospects of law-based international stability in light of the responses of the US to the challenges that terrorism poses. Likewise, the humanitarian intervention debate, while not the central subject of my research, nonetheless encapsulates many of the themes that were of necessity explored in Section Two, and so forms a part of the current study to some degree. This is because of the similarities with the way in which large-scale humanitarian emergencies also pose fundamental questions of imperative action in the face of legal stricture. However, the thematic considerations do not carry through to a detailed examination of either the political dynamics or legal considerations of humanitarian intervention.

NSS 2002 contains a wide ranging discussion of national security issues facing the US. For example, in the wake of the attacks of 11 September 2001, it is not surprising that the struggle to eliminate global terrorism and prevent future terrorist attacks from being carried out against the US and its allies is featured in the Strategy.² However, issues related to terrorism are not the exclusive concern of NSS 2002. The need to reduce conflict around the world and increase regional stability, and engaging constructively with other great powers in order to develop "agendas for cooperative action", are both major components.³ Other sections deal with subjects that the US has long been committed to. These areas include support for aspirational human rights, the promotion of global economic growth in line with US-style free market capitalism, and the expansion of democracy alongside development around the world.⁴ Although all these issues are included in the document, the emphasis here is on the US asserted right to act preemptively – not the various other aspects of the Strategy that are either more broad and less contentious in their applicability or more general in their expression.⁵ The fact that the asserted right of the US to engage in preemptive self-defense has not been invoked in the six years since the document was published does not diminish the focus of the dissertation or importance of the research question.

² United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," (2002). This concern figures into more than one area discussed in the document, but see especially Chapter III, "Strengthen Alliances to Defeat Global Terrorism and Work to Prevent Attacks Against Us and Our Friends" 5.

³ Ibid. See Chapter IV, "Work with others to Defuse Regional Conflicts" 9, and Chapter VIII, "Develop Agendas for Cooperative Action with the Other Main Centers of Global Power" 25.

⁴ Ibid. See Chapter II, "Champion Aspirations for Human Dignity" 3. See also Chapter VI, "Ignite a New Era of Global Economic Growth through Free Markets and Free Trade" 17. See also Chapter VII, "Expand the Circle of Development by Opening Societies and Building the Infrastructure of Democracy" 21.

⁵ Ibid. United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 13-16. The section that deals most directly with the use of preemption is Chapter V, "Prevent Our Enemies from Threatening Us, Our Allies, and Our Friends with Weapons of Mass Destruction" 13-16.

Methodology

A comprehensive review of all instances of preemption in international politics was not deemed necessary, although several of these are discussed in later chapters to the extent that NSS 2002 displays a level of continuity with past state practice. However, the question of continuity is not exhausted by other instances of preemption, and in any event it is preemption as a publicly announced disposition that gives this study its purchase. Except for relevant cases in international law, the examination is confined to the post-World War II era and the signing of the United Nations Charter, with which an asserted right of preemption apparently conflicts. It hardly required research to discern that preemption is not novel in international affairs since 1945. What is central to my research is not recorded instances of preemption, but the fact that it has been announced as a policy disposition by a country with the military reach and standing of the US.

I employed all the necessary secondary sources, drawing on the literatures of international law, international relations theory, security studies, US history, US foreign policy, diplomacy, and military history. A range of official documentation was drawn upon, including policy documents issued by the US government. Documents produced by other entities, such as the United Nations Charter and various International Court of Justice rulings were examined as well. The research also included pertinent speeches from US government officials. In addition, every mandated National Security Strategy that has been published was obtained, most through research undertaken at the US Library of Congress. I looked at contemporary affairs pertinent to preemption, including the humanitarian intervention debate because of its connection to state sovereignty under Article 2.4 of the UN Charter. The divisions among leading international legal scholars were also considered, as were ways in which evolutionary changes occur to the

body of international law as a whole. There was no empirical research to be conducted as such.

In the course of investigating Section One, I conducted interviews with individuals directly involved in the drafting of NSS documents, including of course NSS 2002. In addition I interviewed former members of the present and recent administrations who have knowledge pertinent to the framing of NSS documents. Scholars with expertise on facets of national security and US government policy were also interviewed. The in-place interviews were conducted in Washington, DC on two occasions, the first from 23 March 2006 to 06 April 2006, and the second from 06 November 2006 to 10 November 2006. Subsequent interviews conducted by telephone and written correspondence bolstered these discussions. None of my interviewees insisted on anonymity; and all are listed in the bibliography whether or not they are quoted in the text.

I had privileged access in obtaining interviews with several Bush administration officials who had recently left government service. Mr. Andrew Hoehn, Director of the Strategy and Doctrine Program of Project Air Force at RAND, served as Deputy Assistant Secretary of Defense for Strategy from 1998 to 2004. Mr. Franklin Miller, Senior Counselor at The Cohen Group, served as Special Assistant to President George W. Bush and Senior Director for Defense Policy and Arms Control on the National Security Council staff from 2001 to 2005. Professor Philip Zelikow, White Burkett Miller Professor of History and Director of the Miller Center of Public Affairs at the University of Virginia, helped draft NSS 2002 in an unofficial capacity and subsequently served as Counselor of the US Department of State under Secretary of State Condoleezza Rice from 2005 to 2007.

The invasion of Iraq in 2003 is not considered here as a case of preemption as declared allowable by the US in NSS 2002. This is because there remains a great deal of contestation over whether the invasion was legal or illegal. There are authoritative individuals who have cogently argued that the invasion was legal.⁶ Nevertheless, there remain at least as many who contest its legality.⁷

There also remains fundamental disagreement over whether the invasion was preemptive, preventive, or simply a war of aggression. It has become more clear over time that the conditions that NSS 2002 foresees as necessitating preemption – the rogue state-WMD nexus – did not exist in Iraq at the time of the US invasion, at least in the manner and magnitude feared by the US and its allies. In the years since 2003, the US invasion of Iraq has increasingly been viewed as having been anticipatory rather than responding to an immediate threat, particularly since the US has had to publicly temper earlier assertions of an Iraqi terrorist connection with al Qaeda. Nor were any significant active WMD programs or stockpiles discovered in the aftermath of the US military action. So the military action itself is viewed by most individuals as preemptive in *character* whether they supported the invasion or were skeptical of the wisdom of undertaking the action – notwithstanding the disagreement noted above about whether it should be classed as preemptive, preventive, or in some other way.

⁶ Richard N. Gardner, "Neither Bush nor the 'Jurisprudes'," American Journal of International Law 97, no. 3 (2003). See also Christopher Greenwood, The Legality of Using Force against Iraq [Memorandum] 24 Oct 2002 [cited 24 Jan 2009]; available from <http://www.publications.parliament.uk/pa/cm200203/cmselect/cmfaif/196/2102406.htm>. See also William H. IV Taft and Todd F. Buchwald, "Preemption, Iraq, and International Law," American Journal of International Law 97, no. 3 (2003). See also Ruth Wedgwood, "The Fall of Saddam Hussein: Security Council Mandates and Preemptive Self-Defense," American Journal of International Law 97, no. 3 (2003). See also John Yoo, "International Law and the War in Iraq," American Journal of International Law 97, no. 3 (2003).

⁷ Richard Falk, "What Future for the UN Charter System of War Prevention?," American Journal of International Law 97, no. 3 (2003). See also Tom J. Farer, "The Prospect for International Law and Order in the Wake of Iraq," American Journal of International Law 97, no. 3 (2003). See also Franck, "What Happens Now? The United Nations after Iraq." See also Miriam Sapiro, "Iraq: The Shifting Sands of Preemptive Self-Defense," American Journal of International Law 97, no. 3 (2003).

Whatever threat Iraq was believed to have posed, it was not imminent in the conventional legal sense of the term. For these reasons, a case study of the invasion of Iraq would shine little light on the research question, much though a great deal of research needs to be done on the causes and consequences of the 2003 Iraq War. What matters most is the announcement of preemption as an enabling policy.

Structure

The question of exceptionality had to be broken down, and was broadly divided into two sections. The first section deals with internal exceptionality, in terms of means (the deliberation and drafting processes) and ends (the US defense posture). The second section deals with external exceptionality in terms of possible consequences. This division aided in demarcating how NSS 2002 might be exceptional in US-specific policymaking terms from how it might be exceptional in broader terms outside the US.

Chapters One through Five establish the grounds for looking into the formulation of NSS 2002, and provide the background for that Strategy's mandated precursors (those published National Security Strategies since 1986) and other antecedents in US foreign and security policy. In order to investigate whether NSS 2002 was exceptional, it was necessary to explore how NSSs are conceived and framed. This comprised the substance of Chapters One through Three.

NSS 2002 identifies threats which are perceived as revolutionary. It also describes the intended US response in meeting them. After offering a rationale and frame of reference for examining NSS 2002, Chapters Four and Five discuss the Strategy as it was published, and a sampling of contemporaneous reactions to its publication. On the

whole, then, Section One addresses the first phase of the research question dealing with "internal" exceptionality.

Chapter One discusses what national security means in general, and focuses on the US in particular – including the approach the US has taken to national security since the end of World War II. Those basic national security concerns that are universal in character, such as survival and standing, are explored. Particular US national security objectives that were brought about by changes to – and within – the international system are considered, such as the advent and conclusion of the Cold War. Chapter Two begins to tighten the focus of the study by examining the national security structures and processes that the US has developed or that have grown up around US needs. The focus remains internal, and includes the formation and evolution of the national security apparatuses in the US, such as the National Security Council. The interplay between the distinct branches of the US government, in terms of formulating national security policy, is also surveyed. Chapter Three concentrates on national security reports and pronouncements. These products are a crucial context for evaluating NSS 2002. Both modern pronouncements made by US Presidents about national security, and the modern NSS reports that Presidents are mandated to produce, are studied. The place of NSS reports as tools for forming and announcing policy (and their place as a product of compromise and negotiation) is also explored.

As mentioned, Chapter Four presents the various facets of the NSS that was issued by the Bush administration in September 2002. Although straightforward, the chapter provides context for the release of NSS 2002. It does this by including a consideration of some of the features of the Bush administration that were apparent from its early days. A very brief review of the events of 11 September 2001 is included. The chapter

then reviews the statements and speeches given by senior administration officials that prefigured NSS 2002. Finally, NSS 2002 itself is discussed. Chapter Five brings Section One of the thesis to a conclusion by reviewing the reactions to the release of NSS 2002. Special attention is given to those reactions enunciated before the US invasion of Iraq. While it is difficult to draw a stark line separating opinion before and after March 2003, earlier reactions tend to give more attention to the logic of the document itself, and to possible legal and political implications. After Spring 2003, discussion of preemptive self-defense took on a less document-specific character.

Section Two concentrates on the second part of the research question, the implications of NSS 2002. When investigating whether NSS 2002 was exceptional in the international arena, I found I could not abstract it from its several contexts. This led to a thematic approach – in terms of the use of force, the international security environment, and international law. Possible consequences of the proposed US response to contemporary security challenges are considered in these three key areas.

Chapter Six reviews the use and threat of force in international affairs. As no universally accepted vocabulary exists in the literature, the chapter begins by laying out the terminology employed in this work. The utility of the threat of force is considered, especially in terms of signaling intent and influencing behavior. The threat of force is almost omnipresent in international politics. This fact is discussed with particular emphasis on the use of deterrence and preemption. The chapter concludes with a consideration of the very real constraints on the use and threat of force. Chapter Seven assesses the international security environment, and does so in a way that acknowledges the particular dangers identified in NSS 2002. The chapter also reviews the current state of WMD, a crucial part of the logic underpinning the case for preemption in NSS 2002.

WMD capacity has expanded in recent years, as advancements (particularly in the biosciences) have allowed for increasingly lethal agents to be conceived and developed. A related matter is the potential extension of WMD capacity to states, groups and even individuals; not only are WMD potentially more lethal than ever before, but they are also potentially more available than ever before. Thus the expansion, and the extension, of WMD capacity must both be considered when gauging the threat posed by weak states and terrorist groups. The extent to which the intersection of terrorism and WMD poses an unprecedented threat is evaluated in this context.

Finally, Chapter Eight explores the *prima facie* case that NSS 2002 offers a direct challenge to international law. The chapter first provides a legal context in which to view NSS 2002 by reviewing the several varieties of self-defense as they exist under the UN Charter, in light of the Charter's standing as codified international law. The next section begins with a consideration of how customary international law and codified international law are related. The customary behavior of states can either challenge codified law or reinforce it over time. However, there is no universally agreed means by which to determine what has standing as customary international law. For this reason, assertions that state custom has legal standing are a particularly interesting and contentious source of legal debate. While customary international law has not usually been cited to justify preemptive self-defense, it has nevertheless been a line of argumentation employed for another class of challenges to Article 2.4 of the UN Charter – the humanitarian intervention debate. Similarities can be discerned between the humanitarian intervention debate and the debate around the use of preemptive force, and the significance of this fact is discussed in terms of evaluating the legitimacy of preemptive self-defense. The chapter concludes by emphasizing the fact that legal challenges can themselves be developmental.

As the final draft of this thesis was being prepared, Barack Obama was inaugurated as President of the United States. At the conclusion of that ceremony, George W. Bush boarded a US Marine Corps helicopter and was whisked away from Washington. The administration that had responded to the attacks of 11 September 2001, and overseen the launching of two wars – and the publishing of NSS 2002 – had ended. As the Obama administration begins its tenure, it faces an expanded set of challenges, and will doubtless develop its own unique approach to national security.

Yet, this transition of power does not cast the dissertation as an historical study. Preemption is unlikely to disappear in international politics. We can not know whether the disposition evinced in NSS 2002 might still have an effect on the disposition of other states, even in the absence of a WMD-terrorist incident. Further, it is unclear just where the new administration will draw its own parameters around the use of force. The new American administration has yet to produce its own National Security Strategy.

I. The 2002 National Security Strategy (NSS) of the US

1.0 National Security Disposition of the US – Purposes

1.1 "Fixed" Purposes In Common With All Other States

All states have a basic security concern: their continued existence as a functioning political entity. The purpose of ensuring the survival of the state is a primary purpose of governments. Yet this basic requirement quickly becomes complex, if not problematic.

For as soon as a leader begins to ponder *how* to ensure the survival of their state, the means identified give rise to additional security concerns and goals. Sometimes the means by which a security objective is to be met themselves become objectives. If a certain means is viewed as vital to obtaining an objective of overriding importance, then retaining the ability to effect that means becomes a critical objective in its own right.

So states must consider what they view as vital to their existence, and identify the requirements for ensuring it – a process that may well breed more vital interests.⁸ As part of this, states are cognizant of the environment around them. To the extent that they can, they ascertain the strengths and weaknesses of their neighbors, and the security concerns that are held by these potential competitors. By seeking this information, states hope to identify the intentions of other states, and their ability to act on those intentions.

Changes in the overall international environment have the potential to affect the character of the threats confronting states. For example, advances in technology may

⁸ One working definition of what constitutes "vital interests" is the objectives that a state identifies as being its most important – the ones which it is prepared to go to war to protect. See Robert Gilpin, *War and Change in World Politics* (Cambridge; New York: Cambridge University Press, 1981) 25.

greatly increase the power of some states over others. Fluctuations in the relative power of states – diplomatically, economically, militarily, or even in terms of "soft power" – occur regularly rather than exceptionally. Historically, all such changes have forced states to reevaluate both the threats facing them, and their vital interests. States have ignored such changes in their environment at their peril. In addition, the various changes that occur in the international environment all interact and influence one another; for example, an advance in the technology held by a state may lead to increased economic power, or vice versa.

Of course, when it attempts to identify its most crucial concerns, the concerns of others, and their existing and potential ability to obtain certain objectives, the perceptions held by a state are of paramount importance. To say that comprehensively understanding the objective reality of the international system is elusive would be an immense understatement. Even if one were able to put aside the constant flux present in a world of interrelated actors and circumstances, and isolate a fixed point in time, the complexity and number of variables to be considered simply render any sort of absolute knowledge impossible. The "reality" of certain situations may be ascertained to a greater or lesser degree; it may be possible to identify and comprehend some facts with much more certainty than others. Nevertheless, in the vast and ever-changing world in which states operate, it is their *perception* of circumstances – of threats, intentions, abilities, and context – that states use to form beliefs and to plan. In the end it is facts *as they are perceived* that are fed into the decision-making calculus of states.

And so, ambiguity and imprecision often accompany considerations of "security" and "interests". Even temporarily setting aside the role of perceptions, definitional questions remain. How does one define a "vital" interest? How does one define "winning" in a

conflict? The term "vital interests" is a vague one; not only is it imprecise, but it may change significantly over time. Nonetheless, the term is useful when considering the interests which a state considers to be "of overriding importance to its security".⁹

Economic, political, and ideological objectives have been sought by states; foreign policy results from the compromises that are made as part of the process of identifying and prioritizing these objectives within a certain historical context.¹⁰ Foreign policy is not synonymous with national security policy and strategy. However, the two overlap and influence one another; and in the United States this overlap generally increased over the course of the 20th century.¹¹ A recognition has developed that rather than being two separate endeavors – with national security policy focusing on the military defense of the nation, and foreign policy concerned with the relations of the US with other states – the objectives of each impact on the other. What has been written about the US is also true of all states: debate revolves around not *whether* a nation will fight to secure its vital interests, but rather in defining what those vital interests are.¹² Just as policy results from the prioritization of objectives, the formulation of strategy results from "discrimination and choice within an environment of limited resources".¹³

National Survival: Territory and Resources

A fundamental part of a nation's survival is the continued existence of its political authority over a distinct territory. Yet the retention or expansion of territory has

⁹ Ibid.

¹⁰ Ibid. 23.

¹¹ Sam Charles Sarkesian, John Allen Williams, and Stephen J. Cimbala, U.S. National Security: Policymakers, Processes, and Politics, 3rd ed. (Boulder, CO: Lynne Rienner Publishers, 2002) 15.

¹² Walter Lippmann, U.S. Foreign Policy: Shield of the Republic (Boston: Little Brown, 1943) 87.

¹³ Jeffrey Record, Dark Victory: America's Second War against Iraq (Annapolis, MD: Naval Institute Press, 2004) xii.

implications beyond the political control of a certain geographical area. Control or expansion of territory is a long-standing objective of states; territory often adds to the wealth of the state, and to its security. For example, control of territory amounts to control of natural resources, and so increases the possessions and productive capacity of states; security is enhanced by this increased wealth and economic power, but also by the spatial buffer that territory provides from other states. The relationship between the amount of land a state controls and the amount of economic power it possesses has changed over time, and there is a less direct correlation between territory and wealth in modern times than there was before the Industrial Revolution. However, control of territory remains one of the basic objectives of states.¹⁴

Also, all states try to ensure access to resources. They do this by protecting the resources present within their own borders, and by political, economic and diplomatic means when feasible. Many natural resources are of great value in terms of trade or strategic usefulness. However, over the first half of the 20th century, the single natural resource that grew most in importance to states was petroleum. To a greater or lesser degree, depending on their consumption needs and the size of their domestic reserves, all states have to consider how to maintain reliable access to oil.

Maintaining Or Expanding Power

States tend also to seek the maintenance or expansion of their power, in part by striving to maximize beneficial outcomes while working to minimize associated costs. One way in which a state maintains its existing power is by protecting the established rights and prerogatives of the state. For example, one reason that Woodrow Wilson took the US to

¹⁴ Gilpin, War and Change 23-24.

war in 1917 was that Germany repeatedly did not respect the US asserted right of neutrality.¹⁵

Though not the sole consideration of policymakers, the relationship of their nation with the other great military powers of the world is a primary interest.¹⁶ To the degree that a state's power relative to others can be increased without adverse effects (such as being counter-productively provocative), it is viewed as desirable and something to be pursued. The same is true of a state's prestige.

Prestige is distinct from power. Power refers to the capability of a state to enforce its will. Prestige refers to whether that state is perceived by others as possessing the capability of enforce its will, and the willingness to do so.¹⁷ Prestige can flow from the particular position of a state, as well. That is, a state's unique ability to engage others in its region, or its perceived expertise in a certain area, can also result in the accrual of prestige. Thus even when some states seem dwarfed by great powers, they may well still possess a degree of power and prestige. This is one reason why "middle power internationalism" is worthy of study.¹⁸ Relatedly, states both great and small have the potential of possessing "soft power" which results from their cultural and moral standing, and technological and economic advancement, that augments the "hard power" of their military and diplomatic might.¹⁹ Regardless of its source, the furtherance of prestige is as desirable as the expansion of power.

¹⁵ Frederick S. Calhoun, *Power and Principle: Armed Intervention in Wilsonian Foreign Policy* (Kent, OH: Kent State University Press, 1986) 120.

¹⁶ Lippmann, *U.S. Foreign Policy* 100-101.

¹⁷ Gilpin, *War and Change* 30-31.

¹⁸ Cranford Pratt, *Middle Power Internationalism: The North-South Dimension* (Kingston; Buffalo: McGill-Queen's University Press, 1990). See also Jonathan H. Ping, *Middle Power Statecraft: Indonesia, Malaysia, and the Asia Pacific* (Aldershot, Hants, England; Burlington, VT, USA: Ashgate, 2005).

¹⁹ Joseph S. Nye, *The Paradox of American Power: Why the World's Only Superpower Can't Go It Alone* (Oxford; New York: Oxford University Press, 2002).

Ensuring Economic Well-Being

As mentioned, there is not a direct and constant correlation between geographical size and prosperity. Further, although economic power is crucial to security success it is not the only factor; others include political and military decisions and mistakes.

Nonetheless, a decrease in economic well-being due to an ailing economy or inefficient use of resources often causes a corresponding decrease in the real power and perceived standing of a state.²⁰

The relationship between resources, wealth and national security is a complicated one.

The possession of any one does not guarantee a state the ability to secure the others.

Even when a state is fortunate enough to enjoy all three, the ability to retain them is dependent upon numerous factors, not least of which is the ability of the state to defend all three against adversaries without overextending itself.

Domestic Purpose

The security disposition of states also has a domestic expression. The domestic purpose behind the security posture of states may be the display of its foreign policy posture to its own citizenry, a warning against dissent, or it may be intended to cultivate popular support for a particular leader or policy. In the case of the United States and other nations with governments in the liberal democratic tradition, there is a certain level of domestic support that must be maintained for foreign and defense policy to be accepted; that is, a state's stated security disposition must in part target a domestic audience and

²⁰ Paul M. Kennedy, *The Rise and Fall of the Great Powers: Economic Change and Military Conflict from 1500 to 2000* (London: Fontana, 1989) 450.

hope to influence it, since the citizenry must support the disposition of the state to a significant degree.

In a democratic state, if a broad portion of the electorate is opposed to a specific national security policy, the implementation of that policy will not be sustainable in the long term. Any broad national security strategy must be based on broad domestic support. A danger for US administrations is to view domestic dissent as a threat to national security, and then seek to suppress it by invoking the broad, imprecise terms of "vital interest" and "national security".²¹ For if a national leader is committed to using force, whether in the face of domestic opposition or not, it is relatively easy for them to position the action as protecting or enhancing vital national interests.²²

1.2 US National Security Parameters Arising from Its Status and Position

In addition to objectives held by all states, the US faces a range of issues arising at least in part from its position in the international system. These particular issues are often unique to the US, although some similarity may be discerned with other great powers. The security disposition of the US arises in part as a result of its geographical location, its standing as a great power and as a wealthy nation, and the character of its international relations which have been tailored to its own situation.

²¹ Amos A. Jordan, William J. Taylor, and Michael J. Mazarr, *American National Security*, 5th ed. (Baltimore, MD: Johns Hopkins University Press, 1999) 4.

²² Jeffrey Record, *Making War, Thinking History: Munich, Vietnam, and Presidential Uses of Force from Korea to Kosovo* (Annapolis, MD: Naval Institute Press, 2002) 131.

As with all other states, the American security disposition is born of values and interests. It is expressed as policy and strategy. To the extent that some US values and interests are unique from those of other nations, a distinct American security disposition can be said to exist. Values may be thought of as principles that give rise to national interests. While principles, as such, are not objectives in their own right, national *interests* "determine ends not means".²³ It is these ends that find expression in the foreign and security policy of the US. National security *policy* and national security *strategy* are not synonymous; policy refers to ends, and strategy refers to means.²⁴

In terms of its geographical position, the US has an interest in the stability of the lesser powers of Central and South America because of their proximity. This has given US security policies an historical hemispheric focus, most clearly articulated in the Monroe Doctrine.²⁵ Two great oceans help protect it from potential adversaries. The US has abundant natural resources that fed its industrial growth. Its huge land mass allows for military planning and preparation in depth.²⁶

The geographical demarcations of a state remain constant, although its boundaries may expand or contract during the course of historic events. However, the value of its natural resources may well vary over time, as known resources are depleted, or new resources discovered. The might and wealth of the US are more prone to variance over time than

²³ David Jablonsky, "The State of the National Security State," *Parameters* (2002): 18.

²⁴ Sarkesian, Williams, and Cimbala, *U.S. National Security* 35. See also 5-7.

²⁵ United States. President James Monroe (1817-1825), President's Annual Message to Congress [Delivered 02 Dec 1823] [cited 13 Dec 2006]; available from <http://memory.loc.gov/cgi-bin/ampage?collId=llac&fileName=041/llac041.db&recNum=4>.

²⁶ A less positive consequence is that the US has to concern itself with defending an immense area, geographically. The nation is so big that comprehensively monitoring the entirety of its borders and shores is practically impossible.

are its borders. Even those aspects of power that are unique to the US are subject to the fluctuations in the standing of other states, and the US position relative to them.

The vital interests of, and potential threats to, a state are subject to changes in the international environment – both objective and perceived changes. The environment is not static, and so such changes occur regularly, though unevenly in historical terms. The US, like all other states, must take into consideration changes that alter its strategic environment, which in turn informs its strategic outlook. In so doing, it may alter its outlook incrementally, in response to relatively minor changes to the international environment. Such changes in outlook do not always occur incrementally, however.

The meaning of national security has changed over time, not least because American values and institutions have changed – and sometimes quickly.²⁷ And, as with all states, the objectives believed by the US to be vital to its security have also changed over time, as has its perception of security. Though the term was not in common use at the time, concerns with national security existed in the US from the time of its inception.

Although consideration of the "common defense" figured prominently in the US Constitution, US presidents before 1940 talked about security using terms such as "safety" and "tranquility".²⁸ The phrase "national security" became common after World War II.

When looking at past US strategy and issues that have been the focus of security concerns, certain trends are discernible. These trends are a result of the historical context in which they occurred and the perceptions of leaders and planners at the time.

²⁷ Ernest R. May, "National Security in American History," in *Rethinking America's Security: Beyond Cold War to New World Order*, ed. Graham T. Allison and Gregory F. Treverton (New York; London: Norton, 1992), 94.

²⁸ *Ibid.*, 95.

The concept of national security in the US may be viewed as having moved through four phases. The first of these, prominent in the years from independence through the nation's civil war (from the 1790s to the 1870s), emphasized the safety of national borders and the preservation of the federal Union of the states. The emphasis during the second phase shifted to the prevention of domestic class conflict, and hemispheric independence. This phase occurred during the 1880s to 1930s, although it hearkened back to the Monroe Doctrine of the 1820s. The third phase occurred from World War II until the 1960s, and so encompassed the first decades of the Cold War. This phase focused on the freedom of countries both in and outside of the Western Hemisphere, and the health and prosperity of the US economy and political system.

The fourth phase has continued since the 1960s, and has emphasized a modification of the concept of national security toward stability and economic growth.²⁹ This last phase did not displace either the defense and strategic considerations that persisted through the Cold War, or concern with hemispheric or other regional security. Instead, it can be understood as illustrating the way in which national prosperity and national security have become more interrelated.

Protection of "National Security"

From time to time, states may conclude that the environment, or their relationship to it has changed to such a degree that significant readjustment to their strategic outlook is needed. The years during and immediately after the Second World War were such a period for the US. These years saw a move from a long-standing strategy, or

²⁹ Ibid. These past national security trends in the US are drawn from Ernest May's work. May provides an overview of US "notions of national security" from George Washington to George H. W. Bush. His analysis is based on comparing State of the Union messages (known as "president's annual messages" before the 1930s, and "State of the Union" messages since then).

disposition, stressing mobilization capacity to one focusing on more active readiness. Until then, there was strong sentiment in the US favoring the maintenance of very small standing forces, which could be fortified through the mobilization of the nation when needed to respond in times of crisis. This change in disposition resulted in part from the increasing perception that the USSR was the principal security threat to the US; that is, the state most likely to gain the ability and possess the desire to attack the US. The trend toward readiness was also the result of globalization and technological advancement. In a world of strategic bombers and nuclear weapons, it was viewed as increasingly unlikely that the US would have the time necessary to remobilize in response to an attack.

In a book widely read in the US during World War II, Walter Lippmann argued that since no single great power would be able to confront and control the others at the conclusion of the war, that alliances must be sought to ensure stability. In making his argument, Lippmann used the term "national security" to focus thinking on the need for the US to be militarily secure in an environment of other great powers: "The ideal of peace diverted our attention from the idea of national security."³⁰ The term became increasingly used in political discourse around the post-war planning in the US.

The term national security, then, came to have its current meaning and preeminence in US politics just after 1945. It was an idea about security that took into account all potential variables – military, political, economic – and argued that to demobilize and wait for another major conflict to begin before preparing to fight would be too costly in terms of risk. Rather, the US needed to maintain a formidable standing force that could respond to threats quickly and act itself as a deterrent to other states.

³⁰ Lippmann, U.S. Foreign Policy 47.

To do so, the US also needed to maintain cutting edge technology, and maintain its technological and military lead over other nations. What resulted from the concept was a kind of worldview beset by unlimited threats that could never be neutralized in a permanent way. This was interwoven with the belief that the military must be maintained at a constant state of readiness to deal with any one of these threats: "The nation was to be permanently prepared. America's interests and responsibilities were unrestricted and global".³¹

The Post-1945 Position of the US and International Order

The US was the only participant in World War II to emerge richer rather than poorer at the end of the conflict, and it emerged much richer. The US also emerged from that war with its greatly increased military force already projected around the world. The presence of US troops was widespread; they were rebuilding Germany and Japan, and were stationed all across the Pacific Ocean.³²

From this unique position of prominence flowed related objectives. These objectives were to maintain its dominant position, and also to use its position to improve the international order through institutions and processes. This led to support for an

³¹ Daniel Yergin, *Shattered Peace: The Origins of the Cold War and the National Security State* (Boston: Houghton Mifflin, 1977) 220. One embodiment of this new, "expansive", conception of national security by the US was in its worldwide military base planning; see Melvyn P. Leffler, *A Preponderance of Power: National Security, the Truman Administration, and the Cold War*, Stanford Nuclear Age Series (Stanford, Calif: Stanford University Press, 1992) 59.

³² United States Department of State, *Foreign Relations of the United States 1946*, ed. United States Department of State, Historical Office, and Bureau of Public Affairs, vol. I: General, The United Nations; Department of State Publication 8573 (Washington: United States Government Printing Office, 1972) 1110-1196. This section covers "United States National Security Policy: the Extension of Military Assistance to Foreign Nations; Estimates of Threats to the National Security; Coordination of Political and Military Policy; United States Policy with Respect to the Acquisition of Military Bases and Air Transit Rights". See especially "Memorandum by the Secretary of War (Patterson) to the Secretary of State, November 1 1945" 1111-1112.

international order that favored US economic interests, reflected US values, and institutionalized a US-dominant position.

The maintenance of the US position itself was viewed as beneficial to the wider international community. It was thought that in the first half of the 20th century, US diplomacy overemphasized the moral and legal aspects of policy, and neglected power calculations that focus on ensuring stability. Planners argued that focusing the US on its own national interests, without arrogance or "hostility toward other people", would be beneficial for the world as a whole.³³

The creation of international economic institutions were also seen to support a stable, more secure world order. The establishment of a global order supportive of western liberal democratic, capitalist economies – against autarkic regions, advancing free trade, and institutionalized – was seen as essential. This arrangement would favor order and security, not just economic advancement. US planners had the world depression and two global wars in their living memory, and avoiding similar recurrences was a prime motivating factor.³⁴

Cordell Hull, who served as US Secretary of State during most of World War II and was heavily involved in the creation of the United Nations, saw the economic causes of World War II, such as tariffs, "restricted access" to resources, and autarky as some of the most important to recognize and work to prevent.³⁵ Yet while liberal capitalist economic institutions were seen as a way to increase stability and reduce the likelihood

³³ George Frost Kennan, *American Diplomacy, 1900-1950* (Chicago; London: University of Chicago Press, 1970) 103.

³⁴ G. John Ikenberry, "Liberal Hegemony and the Future of American Postwar Order," in *International Order and the Future of World Politics*, ed. T. V. Paul and John A. Hall (Cambridge; New York: Cambridge University Press, 1999), 123-126.

³⁵ Kennedy, *The Rise and Fall of the Great Powers* 463.

of another great war, they also favored the US as the most productive of nations after 1945, and the least damaged economically. The creation of factors that would help ensure the access of industry to foreign markets would also help minimize the chances of an economic slow-down. US industry feared that reductions in government spending post-1945 would lead to an economic slump; industry had become increasingly productive during World War II. These factors form the backdrop for US support for the World Bank, International Monetary Fund, General Agreement on Tariffs and Trade, and the International Bank for Reconstruction and Development.³⁶

While economic measures were seen as crucial, they were not viewed as sufficient on their own to ensure the maintenance of a stable world order. Political institutions were also of immense importance to the US, as evidenced by its leadership in the creation of the UN. In fact, discussion around creating a "new League" began soon after the US entered World War II. The US hoped that the structure of the new UN would correct some of the features of the defunct League of Nations that had rendered that organization ineffective.³⁷ With these improvements in its form, and just as importantly with an active US participating fully in its functions, it was hoped that the UN might succeed where the League had failed.

Yet the US seems to have been pragmatic in its assessment of the UN's ability to ensure international peace and security. From the viewpoint of some US planners, the usefulness of the UN was seen at least partly in terms of being a mechanism to ensure continued US involvement in international political affairs.³⁸ Indeed, it was only shortly after the creation of the UN that additional ways were sought to ensure US involvement

³⁶ Ibid.

³⁷ Wilhelm G. Grewe, "The History of the United Nations," in *The Charter of the United Nations: A Commentary*, ed. Bruno Simma (Oxford; New York: Oxford University Press, 1995).

³⁸ Leffler, *A Preponderance of Power* 19.

in international postwar military planning, as well. It was in this atmosphere that NATO was created as a regional security organization in accordance with the UN Charter. The creation of NATO was meant to both deter a Soviet military threat, and to reassure the nations of Europe that the US was committed to a continuing security role on that continent.³⁹

The security, political and economic institutions created after World War II acted to bolster and continue US prominence – some would say dominance – up to the present. At a unique and brief moment after the war, in a preeminent position, the US created institutions that while limiting its exercise of power, actually consolidated its position.⁴⁰ By persuading other states to participate in the institutional order being set up, the US was limiting the amount of coercive action it might need to take against other states in the future. And indeed the states of Western Europe to varying degrees welcomed the new US-led international order just as much as the US promoted it, viewing that order as necessary to ensuring their security against the Soviet threat.⁴¹

The US may have helped ensure stability and participation by agreeing to limit some of its own freedom of action. One could argue that other powers agreed to participate because the US is a "penetrated hegemony"; its decision-making is relatively

³⁹ Yergin, *Shattered Peace* 362.

⁴⁰ Former Secretary of State and National Security Adviser Condoleezza Rice has argued that the world experienced another such unique moment for change after 11 September 2001, but that it may take decades to ascertain the results of recent US actions: "I think that when we look in retrospect at what happened after World War II, it all looks very orderly and like the United States was simply able to work its will on the international community and that's the way it all came out ... [but] if you go back to that period, if you were Acheson or Truman or Marshall, it probably didn't look so inevitable or so permanent that these changes would go in that direction ... So I would suggest that when we think about the period that we're in now, we not think about this as the outcome but rather as this as the beginning of what is a very turbulent time ...". For her part, Judge Rosalyn Higgins, former President of the International Court of Justice, perceives a crucial difference between US leadership in the 1940s and the present: "... today we have something that we didn't have in the late '40s, which is, for good or ill, part of Europe regarding itself as being a counterweight to the United States. And ... it certainly indicates a resistance that was not previously there to a major [US] leadership role." Condoleezza Rice and Rosalyn Higgins, *Responses to Question from the Author*, ASIL Conference, 29 Mar 2006.

⁴¹ John Lewis Gaddis, *We Now Know: Rethinking Cold War History* (Oxford, New York: Clarendon Press, Oxford University Press, 1997) 285.

transparent due to its liberal democratic makeup and processes, and other states often have contacts and means of channeling requests to the US during the decision making process.⁴² Participation also enabled them to avoid either domination or "abandonment" by the US.⁴³

Access to Resources

Related to the objective of retaining its prominent post-war position, the US also intended to protect its ability to access resources. This was to be accomplished by maintaining US power and the ability to project it. It has been in the years since 1945 that the US ability to maintain and project power has become increasingly dependent on access to one finite natural resource: oil. Access to a steady supply of oil is a strategic necessity for the US. While the US has about 5% of the world's population, and about 2% of global oil reserves, the nation consumes about 25% of the world's oil production.⁴⁴ Domestic US oil production fell every year in the decade from 1993 to 2003. By 2003, the US was importing about 63% of its total oil consumption.⁴⁵ Such is the dependence of the US on this resource that experts expect dire economic consequences for the country if a disruption in supply were to occur, even if significant import-reduction measures are taken in the near future.⁴⁶ The realization of this coming dependence was already growing during World War II.

⁴² Ikenberry, "Liberal Hegemony."

⁴³ Ibid. Ikenberry contends that nothing short of a major war or global economic crisis will upset the post-1945 international order with the US at its core. It is less clear what might alter the structure of that order without completely upsetting it, and how easily the *character* of the international order might be changed.

⁴⁴ Nathanael Greene and et al, "Growing Energy: How Biofuels Can Help End America's Oil Dependence," (Washington: National Resources Defense Council, 2004).

⁴⁵ Robert Pirog, "World Oil Demand and Its Effect on Oil Prices," (Washington: Congressional Research Service; The Library of Congress, 2005).

⁴⁶ Ian Rutledge, *Addicted to Oil: America's Relentless Drive for Energy Security* (London; New York: I.B. Tauris ; Distributed by Palgrave Macmillan in the United States and Canada, 2005) 155.

Something called the "conservation theory" developed in the US during World War II, when the declining number of new sources of oil in the US – combined with the fact that the US was supplying the majority of the oil needs for itself and its allies – led to concern that the US might soon face a major shortfall. The conservation theory held that the US must develop and control enough foreign oil "in order to reduce the drain on domestic supplies, conserve them for the future, and thus guarantee America's security".⁴⁷

The developing defensive military posture of the US also took into account the importance of other natural resources around the world. US planners decided after the conclusion of World War II that the US required a global system of military bases and air transit rights in order to project its power and provide the capability of defending the US far from its own shores, as future attacks were conceived as taking the form of strategic bombing, perhaps with nuclear weapons.⁴⁸ Overseas bases would enable the US to ensure stability by quelling unrest and deterring aggression, at the same time as ensuring access to resources. The US military emerged from World War II determined to protect US access to raw materials such as minerals and oil.⁴⁹ Access to resources would presumably be necessary in the event of another large-scale war; at the same time, such access was also desirable in peacetime. There was certainly a hemispheric emphasis to this planning around natural resources. While the Department of War and Department of State "occasionally" disagreed on tactics, the broad objective of keeping

⁴⁷ Daniel Yergin, *The Prize: The Epic Quest for Oil, Money, and Power* (New York; London: Pocket Books, 1993) 394-396. The Middle East began to be seen by US planners as it had been viewed by British planners since World War I: as a prime region from which to obtain this foreign oil.

⁴⁸ United States Department of State, *Foreign Relations of the United States 1949*, ed. United States Department of State, Historical Office, and Bureau of Public Affairs, vol. I: National Security Affairs, Foreign Economic Policy; Department of State Publication 8850 (Washington: United States Government Printing Office, 1976) 249-418. See "United States national security policy", especially material on "requirements for military bases and air transit rights in foreign areas".

⁴⁹ United States Department of State, *Foreign Relations of the United States 1948*, ed. United States Department of State, Historical Office, and Bureau of Public Affairs, vol. IX: The Western Hemisphere; Department of State Publication 8626 (Washington: United States Government Printing Office, 1972). See section on "Concern of the United States for assuring an adequate supply of strategic materials in the Western Hemisphere" at 233-242; also section on "Interest of the United States in petroleum resources with respect to Western Hemisphere defense" at 243-257.

Latin and South America stable without any "political, economic, or military" interference from outside the hemisphere was acknowledged by both.⁵⁰ However, preoccupation with the stability of regions containing resources that might be needed by the US in future conflicts was not limited to the Americas.

1.3 US National Security Adjustments Occasioned by Changes to the International Order

There are also purposes of the US national security disposition that are occasioned by fundamental changes in the international system, or by specific threats of such seriousness as to affect the international environment as a whole. The advent of the Cold War was one such change. It is impossible to completely separate the US conception of its own security from the environmental context of the years immediately following the end of World War II, in which the Soviet Union was increasingly seen as a threat to the safety of the US. However, the two – the fundamentals of US national security as they were understood at that time, and its perception of the "communist threat" – may be seen as combining to herald, if not actually instigate, the Cold War.

Cold War

The beginning of the Cold War was relatively abrupt, although anticipated by US planners. The degree to which that anticipation helped to bring the Cold War about

⁵⁰ Leffler, *A Preponderance of Power* 60. Leffler also notes that "The initial problem facing U.S. officials was to reconcile their traditional attachment to the Monroe Doctrine with their support of the new principle of collective security," 59. This is an interesting example of the tension present between the US preference, at times, to attend to its own security concerns, and its desire to support the multilateral structures which it worked to create.

remains a source of debate.⁵¹ Nonetheless, US planners identified what they perceived as a threat, and responded to it by preparing strategies and force levels to counter it.

It was the beginning of an era in which world politics were dominated by two major, nuclear-equipped powers. A cushion of time and space existed due to the geographic distance between them, and there is no doubt that this helped catastrophic, overt confrontation to be avoided at times.⁵² However, the tension between the superpowers was extremely high at some points. The specter of full-scale, global nuclear war was always present, though considered more or less likely at certain times.

The ensuing struggle between the superpowers defined international politics in many ways for half a century. To a significant degree, it retarded the development of the international order in the postwar years. The Cold War was beginning to define international politics at the time of the UN's creation as the centerpiece of a new international system. This inhibited the UN's effectiveness in decisionmaking and negotiation.⁵³

The USSR and US each saw each other as threatening; in particular, the US focused on Soviet "capabilities" rather than "intentions" because the intentions were unknown –

⁵¹ The parameters of the continuing debate over the "origins of the cold war" are discussed in Melvyn P. Leffler and David S. Painter, eds., *Origins of the Cold War: An International History*, 2nd ed. (New York; London: Routledge, 2005). No general agreement exists among scholars as to whether Soviet behavior and policies, or American behavior and policies, functioned as the primary cause of the Cold War. An interesting comparison of US and Soviet documents that highlight the differing perspectives on the cause of the conflict, while not supplying a definitive answer to the debate, can be found in Ralph B. Levering, *Debating the Origins of the Cold War: American and Russian Perspectives*, *Debating Twentieth-Century America* (Lanham, MD: Rowman & Littlefield Publishers, 2002). For the view that the posture and strategies of the US served to provoke the Soviet Union, see Richard Ned Lebow and Janice Gross Stein, *We All Lost the Cold War*, *Princeton Studies in International History and Politics* (Princeton, N.J.: Princeton University Press, 1994).

⁵² Glenn C. Buchan, *Future Roles of U.S. Nuclear Forces: Implications for U.S. Strategy* (Santa Monica, CA: Rand : Project Air Force, 2003) 8-12.

⁵³ Rolf Ekeus, "New Challenges for the United Nations," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester A. Crocker, Fen Osler Hampson, and Pamela R. Aall (Washington, DC: United States Institute of Peace Press, 2001).

and so, Soviet intentions were "assumed to be the worst possible".⁵⁴ It was fear that the Soviet Union might expand into disaffected parts of Europe that was the impetus behind the Marshall Plan and the significant US investment in the reconstruction of war-torn societies.⁵⁵ While US analysts found it difficult to ascertain Soviet intentions, they worried that a post-war Europe in economic distress and an Asia with defeated Japan and weak China would be prone to communism and Soviet influence.⁵⁶ Were the Soviets to be successful in exercising control over all the resources of Europe and Asia, there was a belief that the USSR would be able to out-produce the US in military terms in very short order.⁵⁷

Apprehension about the intentions and capabilities of the USSR only increased in the years after World War II. Concern was augmented by the perception of some who insisted that the situation was growing more dire for the US. Just two years before assuming his place as US Secretary of State, John Foster Dulles viewed the USSR as experiencing more gains than losses in the nascent post-war period. This led him to argue that the US foreign policy of the day was not as active or effective as it should have been.⁵⁸

The US strategic response to this threat was what became known broadly as "containment". The term was coined by George Kennan, who later became the first director of the Department of State's Policy Planning group.⁵⁹ The term was introduced

⁵⁴ Gwyn Prins, ed., *Defended to Death: A Study of the Nuclear Arms Race* (Harmondsworth, Middlesex, Eng.; New York, NY: Penguin Books, 1983) 25.

⁵⁵ Kennedy, *The Rise and Fall of the Great Powers* 464.

⁵⁶ Leffler, *A Preponderance of Power* 60.

⁵⁷ *Ibid.* 61.

⁵⁸ John Foster Dulles, *War or Peace* (London: Harrap, 1950). See especially 162-164 and 174, and *passim*.

⁵⁹ George Kennan, Long Telegram 1946 [cited 05 Jan 2006]; available from <http://www.gwu.edu/~nsarchiv/coldwar/documents/episode-1/kennan.htm>. While Kennan saw the USSR as hostile to the US, he did not view the threat it posed as a primarily military one. As policy increasingly focused on the danger posed by the Soviet military, Kennan saw US planning seriously diverging from

in the context of maintaining the status quo in Europe by allowing the Soviets to retain their present sphere of influence but to disallow further expansion. It would be a mistake, however, to place too much emphasis on Kennan's role. Even when considering its initial conception, it would be inaccurate to draw him as the sole creator of the strategy. Although a full plan for US strategic policy was not formulated, the OSS and other US agencies were in agreement in voicing similar concerns and proposed solutions – and did so prior to 1946.⁶⁰

The subsequent iteration of the strategy developed and enshrined in NSC-68 – which itself would be followed by other changes in policy that amounted to variations on the theme – expanded on the original idea of containment, and argued for a large-scale US military buildup and a determination to challenge Communist expansion globally.⁶¹ The move from a regional to a global focus, the mission to greatly expand military capability, and the perception of the Soviet Union as more threatening and less reasonable were all changes that moved away from Kennan's original concept and the sensibility which gave rise to it.⁶²

In addition to developing the details of a strategic response to the burgeoning Soviet threat, US officials gave thought to how to foster support for that response. There was also a domestic component to early US Cold War planning. Leaders saw a need to

his own estimation of the threat. See George F. Kennan and John Lukacs, *George F. Kennan and the Origins of Containment, 1944-1946: The Kennan-Lukacs Correspondence* (Columbia: University of Missouri Press, 1997). Kennan grew to disagree with later, more expansive views of the containment strategy.

⁶⁰ See John Lewis Gaddis, *Strategies of Containment: A Critical Appraisal of Postwar American National Security Policy* (New York: Oxford University Press, 1982). See also Leffler, *A Preponderance of Power*.

⁶¹ The best overview of these variations, which included President Eisenhower's "New Look", the "flexible response" explored by the Kennedy administration, and the period of "detente" enjoyed by President Nixon, is found in Lawrence Freedman, *The Evolution of Nuclear Strategy*, 3rd ed. (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2003).

⁶² Though planners sincerely viewed the Soviet Union as threatening, a calculated effort existed to emphasize that threat as much as possible in order to justify greatly increased military spending after the conclusion of World War II. See Fred Kaplan, Paul Nitze: *The Man Who Brought Us the Cold War*. Posted in *Slate* 21 Oct 2004 [cited 02 Dec 2005]; available from <http://www.slate.com/id/2108510/>.

change prevailing American attitudes that favored existing foreign policy, rather than extending the commitments and increasing the cost of that policy. President Truman sought just such change in public attitudes by his use of ideological rhetoric. His use of ideology and his willingness to put the political capital of his administration at stake made it difficult for opposition politicians to challenge the strategic response developed by his administration.⁶³

Such "ideological fervor" was useful; by drawing the perceived enemy as antagonistic and dangerous, it reduced the possibility that alternative courses of action that might rely on compromise and dialogue would be proposed in lieu of the administration's favored policy. Yet, this employment of ideology to garner public support for the US response to the Soviet threat was not simple, cynical manipulation. The fears held by the Truman administration were sincere. Although ideological language can amplify and consolidate the perception of a threat, the US leadership believed that threat to be real and pressing before it first utilized ideological language.⁶⁴ While not used in precisely the same way or scope by successive presidential administrations, the use of ideology continued through to the waning days of the Cold War, when Ronald Reagan famously proclaimed the USSR an "evil empire".⁶⁵

In an important way, the upshot of the Cold War period was that it provided relative stability for US foreign policy. The Cold War saw structural changes such as the end of colonialism and the emergence of new states, but the broad structure of international

⁶³ Leffler, *A Preponderance of Power* 146.

⁶⁴ Ibid.

⁶⁵ United States. President Ronald Reagan (1981-1989), Remarks at the Annual Convention of the National Association of Evangelicals in Orlando, Florida on 08 Mar 1983 [cited 15 Dec 2006]; available from http://www.reagan.utexas.edu/search/speeches/speech_srch.html.

relations remained fairly constant or slow-changing.⁶⁶ US politics around the nation's foreign policy mirrored this constancy. There was broad consensus on the Soviet Union and world communism posing a threat to the vital interests of the US, and on the appropriate policy response being that of containment and subsequently deterrence, which can be regarded as one means of securing the containment of the Soviet Union.⁶⁷

When considering the goals and objectives of the planners of the post-1945 international order mentioned above, one can see that US efforts to set up structures supportive of a global stability that was conducive to American interests and values were compatible – indeed, complementary to – the broad strategy of containment that was pursued. After the US emerged as the hegemonic power at the end of World War II there were two overarching features of its national security policies. The first was containment, which guided foreign policy, bureaucratic and military planning and actions in response to the Soviet Union – the only real potential military competitor among its peers. Containment of the Soviet threat eventually was no longer needed, as the Cold War drew to a close in 1990. However, the second feature – the establishment of an international order supportive of western liberal democratic capitalist economies, and institutionalized in large part because of US initiative and support – has proved more durable and lasting, even into the post-Cold War world.⁶⁸

⁶⁶ Walter Russell Mead, *Special Providence: American Foreign Policy and How It Changed the World*, 1st ed. (New York: Knopf, 2001) 264.

⁶⁷ Ibid. Within this broad consensus, there were disagreements with "hawks" advocating "rollback" and "doves" advocating "engagement", but the overall general agreement remained.

⁶⁸ Ikenberry, "Liberal Hegemony," 123-126.

The end of the Cold War brought with it an end to whatever relative stability may have attended US foreign and national security policy. The ambiguity surrounding the identification of vital interests became more pronounced. Small-scale conflicts and emergency situations have become more commonplace since the end of the Cold War, and the US has been confronted with what some have termed small "wars of choice" rather than large "wars of necessity".⁶⁹

The end of the Cold War not only brought to a close the struggle between the superpowers, but also affected all of the other relationships in the international community. The entire international system had been permeated by the considerations and relationships occasioned by the Cold War. It is because of this fundamental change that other changes were possible – not all of them either beneficent or clear, both for the international system as a whole, or for the US in particular.

Domestically in the US, the end of Cold War produced new political coalitions. Politicians and constituencies left without the half century of Cold War threat to unite them, began to realign themselves according to more narrowly-held perceptions of threat and values. Most elite opinion in the decade after the Cold War came to see an opportunity such as existed previously only in 1919 or 1945 to influence the global order.⁷⁰ There were, however, notable differences in emphasis. Some US lawmakers

⁶⁹ The phrases have been used to distinguish between the use of military force as self-defense against an evident threat, and other purposes that have a less apparent and more indirect link to self-defense. Krauthammer labels the 1999 Kosovo campaign and similar humanitarian actions as "wars of choice", while the US War on Terror is one of necessity, as was World War II; see Charles Krauthammer, "Wars of Choice, Wars of Necessity," *TIME*, 05 Nov 2001. See also Richard N. Haass, "Wars of Choice," *Washington Post*, 23 Nov 2003. Haass agrees that the US War on Terror is one of necessity, but argues that the US invasion of Iraq constituted a separate "war of choice".

⁷⁰ Mead, *Special Providence* 268.

emphasized support for international law, democracy, and the promotion of international consensus to counter aggression and protect human rights. Others focused on furthering global trade and finance underpinned by US military and economic might. There were those, too, who although a small minority, felt that whether taking the form of international laws or world trade regimes, that the US was making a mistake by seeking such a degree of global involvement.⁷¹ While the end of the Cold War may have brought about new coalitions in US politics, it did not produce a consensus around US priorities and policies.

Disagreement within the US on the fundamentals of foreign and national security policy continues. It is impossible to predict the future; and to hope that future trends will be more easily discerned in the complex environment of international relations than they have been in the past is probably unrealistic. After all, the end of the Cold War took diplomats, academics, and military planners by surprise. Still, some factors seem to have more staying power than others, and some trends appear more likely to persist than others.

Historically, conceptions of US national security have both expanded and contracted. Perhaps future conceptions of security will depend on which nations, regions, and issues to regard as vital and which not. National security will most likely continue to mean a continued emphasis on economic growth and strength. Another aspect that seems unlikely to change in the near term is the way in which the US defines (at least in part) its security in terms of the democratic independence of other nations in the world. Finally, the parameters of US national security have expanded periodically in the

⁷¹ Ibid. 268-269. Mead views the George H. W. Bush and Clinton presidencies as globalist (reflecting "Hamiltonian" and "Wilsonian" elements in Mead's terminology). In contrast, the George W. Bush presidency is seen to have modified these elements of policy, and to have courted more isolationist and bellicose elements of the US electorate.

nation's history, and there are indications that the years of the post-Cold War world are such a period of expansion. Therefore the concept of national security will most likely continue to expand as it has in the past, but will still be constrained and guided by the US liberal democratic tradition.⁷²

Technology and the Proliferation of WMD

Changes in technology affect perceived threats, and alter strategic goals by altering the logic or prudence of previous policy. One of the most significant technological transformations of the 20th century was the advent of nuclear weapons. While some argue that these weapons may have increased international stability in some sense, they also brought about the possibility of truly catastrophic conflict.⁷³ In any event, there can be no doubt in this case that the advance of technology brought about a qualitatively new kind of threat; it also brought with it new conceptualizations of both national security and international stability.

The dissemination of knowledge and spread of technology also affect the strategic goals of states. This makes the trade in advanced weaponry a serious concern. Even weapons that are not classed as WMD have the potential of significantly impacting the military capability of rivals. Such is the concern when the US considers the purchase of advanced conventional weapons from Russia by countries such as China and Iran.⁷⁴

⁷² May, "National Security in American History," 112-114.

⁷³ Charles A. Kupchan, "Empires and Geopolitical Competition: Gone for Good?," in *Turbulent Peace: The Challenges of Managing International Conflict*, ed. Chester A. Crocker, Fen Osler Hampson, and Pamela R. Aall (Washington, DC: United States Institute of Peace Press, 2001), 45.

⁷⁴ Sarkesian, Williams, and Cimbala, *U.S. National Security* 26.

Concern about the proliferation of WMD is just as serious, but of a different category. In many ways potential proliferation was less problematic to plan for when the primary WMD threat was from two monolithic sources: the US and USSR. Since the end of the Cold War, an increasing number of possible sources of WMD have come into being. This has meant a corresponding decrease in the ability to monitor all likely sources of proliferation, plan for them, and prevent any such weapons – or materials which could be weaponized – from being transferred to or otherwise acquired by sub-state groups.

While biological and chemical weapons are not as easy to produce as sometimes claimed, they are "within the intellectual, financial, and technological reach of many groups and individuals".⁷⁵ Bioterror attacks are relatively easy to mount, requiring only a few individuals with specialized skills and access to a lab.⁷⁶ Sub-state groups and individuals have a larger number of potential biological and chemical agents to choose from than have professional militaries in the past. A nation's military was somewhat limited by the necessity of researching and developing agents that met certain standards, such as the ability to be produced in quantity, meet a certain quality required for efficient weaponization, and be stable and predictable enough to handle, transport, and store safely.⁷⁷ Experts expect the number of potential biological agents that might be used as weapons will continue to increase as developments in bioengineering continue.⁷⁸

⁷⁵ Frederick J. Manning and Lewis R. Goldfrank, eds., *Preparing for Terrorism: Tools for Evaluating the Metropolitan Medical Response System Program* (Washington, DC: National Academy Press, 2002) 18.

⁷⁶ National Research Council (U.S.). Committee on Science and Technology for Countering Terrorism., *Making the Nation Safer: The Role of Science and Technology in Countering Terrorism* (Washington, DC: National Academy Press, 2002) 32, 67.

⁷⁷ Institute of Medicine (US), Committee on R&D Needs for Improving Civilian Medical Response to Chemical and Biological Terrorism Incidents, and National Research Council (US) Board on Environmental Studies and Toxicology, *Chemical and Biological Terrorism: Research and Development to Improve Civilian Medical Response* (Washington, DC: National Academy Press, 1999) 20-21.

⁷⁸ *Ibid.* 22.

In addition, chemical, biological, and radiological agents are believed to be attractive to would-be terrorists for a number of reasons. One of these is that a relatively small amount of such an agent, if dispersed efficiently, can cause as many casualties and as large a disruption as an attack using conventional explosives.⁷⁹ Due to the fact that even a small amount can yield a large result, the ease with which an agent can be hidden and transported is increased. Further, the fact that some chemical and biological agents are difficult to detect and identify, and may remain a long-lasting threat once released, increases the potential psychological effect of such an attack.⁸⁰

Proliferation has been a concern since the first chemical, biological and nuclear weapons were developed. Efforts existed during the Cold War to limit proliferation, especially of nuclear weapons. However, in the post-Cold War world the threat has become more pronounced. There is a fear that the possibility of nuclear proliferation has been spreading to parts of the world where it was not a concern during the Cold War years.⁸¹

In terms of nuclear devices, the type of expertise needed to actually produce a viable bomb is more advanced. More importantly, the infrastructure required for a nuclear weapons program is much larger than that which is potentially needed for chemical and biological weapons. Facilities required for nuclear research, refinement, and enrichment take longer to develop and are usually more easily noticed – although certainly not

⁷⁹ Manning and Goldfrank, eds., *Preparing for Terrorism: Tools for Evaluating the Metropolitan Medical Response System Program*.

⁸⁰ Adrienne Stith Butler, Allison M. Panzer, and Lewis R. Goldfrank, eds., *Preparing for the Psychological Consequences of Terrorism: A Public Health Strategy* (Washington, DC: National Academies Press, 2003) 60.

⁸¹ Sarkesian, Williams, and Cimbala, *U.S. National Security* 26.

always detected. Overall, this makes the production of nuclear weapons more difficult than the production of chemical and biological ones.⁸²

However, while the development of nuclear weapons might be decidedly more difficult, a number of nation-states appear to be committed to developing them. This is cause for concern, because it is at the state level that adequate expertise and resources can be brought to bear to support the infrastructure needs of such a nuclear program. In addition, states may shorten the time needed to develop WMD by "hiring in" foreign expertise. The possibility of acquiring the required technology and expertise on the open market, by states hoping to become nuclear powers or by sub-state terrorist groups seeking a nuclear weapon or fissile material, remains a grave and pressing concern.⁸³

Sub-State Terrorism

Likewise, the increase in terrorism by sub-state groups is harder to monitor than the Soviet threat. The large number of groups, and the ability of individuals to threaten the economic and political stability of a great power such as the US, is also a serious concern. These concerns are directly related to the worries surrounding the continued development and proliferation of WMD. There exists the very real possibility that such weapons might come into the possession of a sub-state terrorist group. Some groups have already stated their desire to acquire and utilize such weapons, demonstrating that they may well be less constrained in their behavior than nation-states have been.⁸⁴

⁸² Matthew J. Morgan, "The Origins of the New Terrorism," *Parameters* 34, no. 1 (2004).

⁸³ Charles D. Ferguson, "On the Loose: The Market for Nuclear Weapons," *Harvard International Review* 27, no. 4 (2006). Ferguson notes the network of Pakistani scientist Abdul Qadeer Khan as the best known example of technical nuclear plans and expertise being offered for sale. Iran, Libya, and North Korea all availed themselves of the Khan network in seeking nuclear weapons expertise.

⁸⁴ Sarkesian, Williams, and Cimbala, *U.S. National Security* 26.

1.4 US National Security Adjustments Occasioned by Changes within the International Order

Some US national security purposes are occasioned by changes in the international system. Some of these are slow-moving structural changes that are discernible, but gradual. The relative strengthening and weakening of the world's other great powers is an example of such structural changes. Changes in relative power can alter a state's goals and intentions, and the way in which others perceive it. The perception of a state as an antagonist or non-antagonist is changeable, and alters the manner in which others attempt to influence its behavior.

Rise Of China

The People's Republic of China is viewed by the US as growing in stature and importance. China is the most populous nation in the world. It is generally believed that its economy will be the world's largest in a short time. Geopolitically, its influence rivals that of the US within its own region, which encompasses the Pacific Ocean and Southeast Asia. China is dealing with bridging its past identity as a major communist state and international leader in the communist movement, with its economic growth and its potential for liberal economic and political reforms in the future.⁸⁵

That China ranks as one of the world's great powers, and thus must be included in the security considerations of the US, is generally accepted. Some would assert that the US is guilty of naivety in gauging the true objectives and aspirations of China, and that its

⁸⁵ Ibid. 24.

designs are more aggressive than the US estimates.⁸⁶ Since it is probably impossible to ever know with certainty another state's "true intentions", planning often revolves around analyzing the capabilities and past behavior of potential antagonists. In terms of its relative growth, potential economic and military power, and past behavior, US planners find China worrying.

Its growing economy means that China has built a large foreign exchange reserve, and in effect uses dollars generated from trade with the US to purchase weapons systems from Russia, among others.⁸⁷ Related to China's growing economic strength is the fact that it has taken the lead among Asian nations in effectively propping up a deficit US economy.⁸⁸ The US current account deficit – the difference between the nation's national savings and national investment – has been increasing rapidly in recent years. This is due partly to consumer spending in the US, which has continued apace although private and public saving has declined.

However, the largest factor contributing to the increase in the current account deficit is US government borrowing due to the federal budget deficit. From September 2000 to September 2005, the total federal debt had grown 2.3 trillion dollars, an increase of 40%. During this time period, US government debt held by foreign owners almost doubled, increasing 1.1 trillion dollars.⁸⁹ Another way of stating this reliance of the US government on foreigners to finance its deficit is that the proportion of the federal debt held by other nations increased from 22% in 1995 to over 43% in 2004. This situation has potentially negative consequences for the US, as it is unclear for how long central

⁸⁶ Richard Bernstein and Ross H. Munro, *The Coming Conflict with China*, 1st ed. (New York: A.A. Knopf : Distributed by Random House, 1997). See particularly Chapter 8, "China Versus America: A War Game", 186-202.

⁸⁷ Ibid. 207-208.

⁸⁸ Ray Barrell, Ali Al- Eyd, and Olga Pomerantz, "Dollars and Deficits: The US Current Account Deficit and Its Exchange Rate Consequences," *National Institute Economic Review*, no. 191 (2005).

⁸⁹ United States Department of the Treasury, "The Debt to the Penny and Who Holds It" 19 May 2006 [cited 25 May 2006]; available from <http://www.publicdebt.treas.gov/opd/opdpdodt.htm>.

banks in Asia – especially China's – will continue to be "willing to finance the US imbalance" in this manner.⁹⁰

The US and China also have a history of past confrontation, which has not been erased by periods of relative rapprochement between the two nations. For example, the relationship between China and the US is complicated by a unique feature, the disputed and ambiguous status of Taiwan.⁹¹ In addition, several actions taken by China in recent years are interpreted as signaling less than benign intent, and have certainly been interpreted as provocative from the point of the US.

In recent years, China has taken control of Mischief Reef, a disputed territory that had been held by the Philippines. It has also sold nuclear weapons technology to Pakistan, as well as missiles to Iran. The PRC has given rhetorical or material support to countries which have problematic relations with the US, such as Iran, Sudan, and Nigeria. China has been extremely interested accessing the natural resources of African nations – resources such as oil and minerals – in order to help feed its rapid economic growth. At a recent summit in China, attended by representatives from dozens of African countries, Chinese firms signed deals worth almost two billion dollars to develop infrastructure and industry in various African nations.⁹² This is part of a recent trend that has seen China signing trade deals with African nations, increasing its foreign aid to the continent, and taking a larger role in African peacekeeping missions than ever before –

⁹⁰ Barrell, Eyd, and Pomerantz, "Dollars and Deficits: The US Current Account Deficit and Its Exchange Rate Consequences."

⁹¹ Bernstein and Munro, *The Coming Conflict with China*. See particularly Chapter 6, "Flashpoint: Taiwan", pp.149-165.

⁹² Chen Aizhu and Lindsay Beck, "Chinese-African Summit Yields \$1.9 Billion in Deals," *Washington Post*, 06 Nov 2006.

all of which are seen as improving China's reputation among African nations, and strengthening its relations with them.⁹³

China has also warned its regional neighbors that they should pay more heed to its wishes than to those of the US or other states geographically outside of Asia. Not least, China has indicated that its nuclear arsenal is targeted at the US.⁹⁴ These public actions have been taken against the backdrop of key elements of the Chinese government and military viewing the US as China's main adversary, and the greatest threat confronting their country.

Continuing Transition Of Russia

Finally, although the Soviet Union's dissolution was completed in the early 1990s, Russia continues to be in a state of transition. Even though the threat posed by the Soviet Union was of a unique character, Russia remains a great power which must be factored into US calculations of national security. As a military power, its aging and shrinking nuclear arsenal is still by far the second-largest in the world. As a political power, it retains a permanent UNSC seat and important relationships forged during the Cold War. Russia has significant influence with the newly independent states of Europe. While its domestic economy may be weak, its natural resources (such as its oil and gas reserves) are becoming increasingly important to global security concerns. Russia thus retains immense strategic importance.⁹⁵

⁹³ Colum Lynch, "China Filling Void Left by West in U.N. Peacekeeping: Despite Its Misgivings, Nation Is Now 13th-Largest Contributor to Missions as Major Powers Withdraw," Washington Post, 24 Nov 2006.

⁹⁴ Bernstein and Munro, *The Coming Conflict with China* 20.

⁹⁵ Sarkesian, Williams, and Cimbala, *U.S. National Security* 24.

In the years since coming to power in 2000, Vladimir Putin has been viewed as committed to strengthening Russia's position in international politics. The fact that Russia has continued work on implementing economic reforms and stabilizing its internal, post-Soviet political situation has not done away with the fear that a Russia under Putin's leadership might evolve into a revanchist threat.⁹⁶ Indeed, some experts on the country warn that the US is guilty of naivety in gauging the true objectives and intentions of Russia; they see its designs as having been more malevolent than the US thought in the past, and believe the same is probably true of its post-Cold War incarnation.⁹⁷ In taking this view, they voice concerns that are similar to those held by others about China.

Conclusion

Just as the unique disposition of the US and changes to and within the international system have acted together to influence the formation of past policy, so they continue to influence the latest great change in national security policy, which was embodied in the 2002 *National Security Strategy of the US*. Before turning to that latest – and in some ways most contentious – change in policy, it is necessary to first look at the mechanisms and processes through which the US synthesizes the variables discussed in this chapter, in order to reassess its strategic purposes.

⁹⁶ Ibid. 24, 28.

⁹⁷ Fred Coleman, *The Decline and Fall of the Soviet Empire: Forty Years That Shook the World*, from Stalin to Yeltsin, 1st ed. (New York: St. Martin's Press, 1996).

2.0 The Framing of US National Security – Structures and Processes

2.1 Structures

The thesis to this point has discussed what national security means in general, and has then focused on the US in particular – including the approach the US has taken to national security since the end of World War II. The particular US national security objectives that were brought about by changes *to* the international system were considered; then the particular national security objectives that were occasioned by changes *within* the international system were touched upon. This thesis will now move on to the national security structures and processes that the US has intentionally developed or that have grown up around US needs.

For the purposes of this discussion, the terms "structures" and "processes" will be used. The word "mechanism" is used as a convenience to describe both structures and processes, or to describe what the two together amount to. "Structures" will refer to the formalized systems – whether executive, bureaucratic, legal, administrative – which facilitate the achievement or maintenance of desired states or outcomes. For example, the NSC is a structure whose purpose is to help ensure the safety and security of the US. "Processes", however, will refer to the means by which structures function effectively, especially with respect to changing or unexpected circumstances. Processes, therefore, may be thought of here as the creative, functional means by which structures operate.

There is of course overlap between the structures and processes that frame US national security policy.⁹⁸ Some structures have little practical relevance if viewed in isolation

⁹⁸ Although the phrase "national security policy" often has a quite specific reference to mandated NSS reports, the phrase also refers to a large number of federal structures and processes that have a primary or

from the conventional processes that imbue them with meaning (e.g., the formal structure of the NSC). And to the extent that some processes have been established by law, they are less flexible than processes that have arisen out of convention or practical necessity. Processes mandated by law are formalized in much the same way that structures are. The distinction between structures and processes is a useful one when considering the differences between formal systems and their practical implementation. However, this distinction is not an absolute one and some facets of US national security mechanisms can be understood or interpreted as both structure and process. This is the case when considering mandated processes. For example, the US Congress – itself a structure integral to the US national security policy system – may pass a law requiring that a certain process be followed (by itself or another structure).

Congress

There are fundamental structures that have been established by the US Constitution which function, in part, to frame national security interests, objectives, and means. The authority of Congress derives from its constitutional role as the legislative branch of the US government, and its representation of the American people who elect the body. The Congress can express its support of or dissatisfaction with broad strategies, or specific ends and means. The Congress may express itself rhetorically; through voting on budgetary and other matters; or by exercising its ability to oversee the activities of the Executive branch.

There have been periods of greater or lesser inclination on the part of the Congress to involve itself in national security strategy. Long before the term "national security" was

secondary role in supporting what is generally classed under that heading at any particular time; it is this more general meaning that is referred to here.

in usage, Congress fluctuated in its desire to involve itself and influence the foreign policy of the US, and in curtailing the Executive's use of the military. These may be seen as part of an inherent tension between the Executive and the Congress over the boundaries of Executive power.⁹⁹

Congress influences national security policy in ways other than through its voting. This may be done by presenting issues in a certain way in the media, or to other audiences; or by passing resolutions that rhetorically help frame national security debates or otherwise influence policy formation.¹⁰⁰ Individual members can also have influence through rhetoric and the advocacy of certain views, although they may carry less weight than statements resolved and passed by the Congress as a whole.

Over the past four decades Congress has sought to become a more active participant in matters of national security policy.¹⁰¹ A significant reason cited for this is US military involvement in Vietnam. Because of that divisive war, and augmented by a number of scandals and perceived failures on the part of the Presidency – such as the Watergate scandal, the Iran hostage crisis, and the Iran-Contra arms trade scandal – the Congress became far less willing to cede authority in matters of security to the President. It had been more willing to do so in the years immediately after the Second World War. There had been a perception then that the Executive, as the entity in possession of the best information about risk, potential adversaries, and the best way to defend against them, should be given latitude in the policy formation regarding such matters.

⁹⁹ Edward Samuel Corwin, *The President, Office and Powers, 1787-1957; History and Analysis of Practice and Opinion*, 4th rev. ed. (New York,: New York University Press, 1957).

¹⁰⁰ Jeremy D. Rosner, *The New Tug-of-War: Congress, the Executive Branch, and National Security* (Washington, DC: Carnegie Endowment for International Peace, 1995) 10.

¹⁰¹ Richard Haass, "Congressional Power: Implications for American Security Policy," *Adelphi Papers*, no. 153 (1979).

The Congress has itself developed many of the resources necessary to evaluate national security policy, in terms of research ability and specialized staffing to work on such issues. A significant growth in Congressional staff has occurred during the past 40 years. Particularly, Congressional reforms led to an increase in personal staffs and committee staffs in the early 1970s; this enhanced the ability of the Congress to evaluate national security ends and means. In addition to increases in Congressional staffing, increased staffing at federal institutions provided improved services to Congress in terms of researching and evaluating issues. New institutions included the Congressional Budget Office and Office of Technology Assessment (now closed), while increased staffing occurred at the General Accounting Office and Congressional Research Service (part of the Library of Congress).¹⁰²

The number and length of committee hearings, length of committee reports, and number of officials from the Executive required to appear before committees have all expanded; this has been made possible by the increased staffing just noted.¹⁰³ These changes help to explain how Congress reviews requests to approve budget requests or particular policy approaches in terms of staff expertise and manpower. Related to this *ability* is the historical *willingness* of the Congress to deal assertively with national security and defense budgets, which as mentioned above have generally increased over the last 40 years.

There is a strong constitutional basis for the Congress involving itself in the formation and evaluation of national security policy. It is charged with advising and consenting to

¹⁰² Ralph G. Carter, "Budgeting for Defense," in *The President, the Congress, and the Making of Foreign Policy*, ed. Paul E. Peterson (Norman: University of Oklahoma Press, 1994), 173. See Fig.2.

¹⁰³ *Ibid.*, 174.

treaties, and to financing the proposed activities of the Executive branch. It is to the Congress that the Constitution grants the power to raise and fund armies.¹⁰⁴

The Congress can greatly impact the formulation of national security policy, not least through its budgetary function. The resourcing of the numerous objectives of national security policy is of crucial importance. If Congress strongly disagrees with a proposed national security goal, or the proposed means of achieving an agreed goal, it may deny funding through the annual appropriations process. Even if the Congress agrees with proposed goals and the proposed means of achieving them – at least publicly – it may deny the resources necessary to implement those means in any sort of practical sense.

In addition to withholding support for specific activities meant to implement specific policies, Congress may also impact policy through its ability to allocate or withhold funding from the federal government in more general terms. This might be done at the level of the total federal budget, or certain departments and agencies might be targeted. Just how Congress plays this procedural role will be discussed in Section 2.2 below.

The politics inherent in a two-party democratic system of government also influence the disposition and actions taken by the Congress. What was termed "divided government" emerged as an issue in the 1970s; that is, the Congress and the Executive were rarely controlled by the same party. This problem, exhibited as an ongoing contentiousness that inhibits policymaking, was exacerbated by Congressional reforms in the 1970s which "decentralized decision making" in the Congress.¹⁰⁵

¹⁰⁴ The Constitution of the United States. See Section 8.

¹⁰⁵ William J. Taylor and Don M. Snider, "U.S. National Security Agenda and U.S. National Security Policy: Realities and Dilemmas," in U.S. Domestic and National Security Agendas: Into the Twenty-First Century, ed. Sam Charles Sarkesian and John Mead Flanagan (Westport, CT: Greenwood Press, 1994), 110.

Partisanship also plays a part in Congress' inclination to involve itself in matters of national security policy. Differences of opinion between the Congress and the Executive about how national security interests are defined and protected may be quite sincere. Nonetheless, Ralph Carter has shown that spending requests from the Executive have a markedly better chance of being revised downward when Congress is controlled by the party in opposition to the President. Interestingly, when one party has controlled the Senate and the other has controlled the House, Executive spending requests have experienced even greater cuts, indicating how partisan rifts within the two Congressional chambers may pose a greater challenge to Executive planning than partisanship between the Executive and legislative branches.¹⁰⁶

Further, the prime consideration of most Senators and Representatives is retaining the favor of their constituents. During peacetime, the public is not heavily invested in its own subjective judgments about foreign policy. The public holds opinions about the foreign policy of the US, and opinions on how well that policy is being carried out. However, the public's interest in foreign policy is often overshadowed by more pressing domestic concerns.

Thus it is far from clear that the Congress is simply out of step with the public's views, or dismissive of them, when one attempts to explain why Congress sometimes pursues isolationist initiatives despite polls showing that most Americans hold internationalist views.¹⁰⁷ Rather, some argue that the reason lies in the fact that the public's opinion on matters of security and international affairs is not predominant during peacetime. The political reality of campaigning means international affairs are used only selectively and

¹⁰⁶ Carter, "Budgeting for Defense," 174-175.

¹⁰⁷ Jeremy D. Rosner, "The Know-Nothings Know Something," *Foreign Policy*, no. 101 (1995).

opportunistically during campaigns; there is a difference "between public opinion and electoral politics".¹⁰⁸

Executive

The role of the President, as both Chief of the Executive branch of the government and Commander-in-Chief of the military, is central to the formation and execution of US policy. If Congressional representatives are sometimes allowed to gloss over international affairs and national security issues in favor of domestic issues, the same can not quite be said of Presidents. Although domestic issues can have enormous impacts on the Executive branch, the President must balance – and the public expects him to balance – such issues with essential national security concerns that may not have immediate salience on the domestic scene.

In presidential politics, candidates must be seen as strong leaders, fully capable of fulfilling the Commander-in-Chief role, and possessing an enunciated foreign policy and national security goals. Candidates who visibly lack this will face a much more difficult road to election, regardless of their domestic proposals. As one scholar put it, "National security in general is a gateway through which all presidential candidates must pass before voters will hear them out on their domestic and economic proposals."¹⁰⁹

In the US, there exist both civilian leadership and military leadership of the armed forces; both fall within the Executive branch of the US government. The President of course functions as the Commander-in-Chief of the military, a role laid out in the US

¹⁰⁸ Ibid.

¹⁰⁹ Ibid.

Constitution. The military is certainly distinct from its civilian counterparts in terms of personnel and structure: rules, standards, and culture all differ. Relations between military leaders and their civilian counterparts is an important one and deserving of study.¹¹⁰ However, the military leadership is ultimately responsible to the President. It is a civilian, the Secretary of Defense, who is appointed by the President to oversee all branches of the US military. The Joint Chiefs of Staff report to the Defense Secretary.

The magnitude of the Executive's influence on the national security process becomes evident when we consider ad hoc reviews and policies implemented by the President or in the name of the President; and when one examines the national security structure – built around and dependent upon the person of the President – that was first formulated in the years immediately following World War II. These two features of Executive involvement in national security formulation will now be addressed in turn.

Ad Hoc "Doctrines" Or Reviews

Many of the structures associated with the framing of national security policy in the US are meant to function on a routine basis, in terms of the frequency of their activity and the fundamental character of their function. In addition, periodic reviews of existing policy and the development of novel approaches are undertaken on an ad hoc basis, and in response to changes in the international environment. Significant examples would include NSC-68, a landmark report dealing with the containment of the Soviet Union

¹¹⁰ See, e.g., Peter Feaver, *Guarding the Guardians: Civilian Control of Nuclear Weapons in the United States*, Cornell Studies in Security Affairs (Ithaca; London: Cornell University Press, 1992). Also Dana Priest, *The Mission: Waging War and Keeping Peace with America's Military* (New York: W.W. Norton, 2004). Civil-military relations is a field with an immense literature in its own right.

which was undertaken at the direction of President Truman;¹¹¹ the report of the Commission on Integrated Long-Term Strategy, which was requested by President Reagan's National Security Council and the Department of Defense, which recommended that military strategy focus less singularly on the Soviet Union;¹¹² and the National Security Review carried out at the direction of President George H.W. Bush at the beginning of his presidency, a review which looked forward to a post-Cold War world and the new strategies that would be needed to address it.¹¹³ Ad hoc reviews such as these, and the strategies that often flow from them, occur in response to events and at the initiative of the Executive branch rather than as a pre-determined imperative to produce a "strategic" report at a certain time.

Ad hoc reviews are most often, although not exclusively, done within the Executive. This is because the Congress has historically found itself more active in responding to security policies set by the Executive than in attempting to create and define such national policies on its own. Within the Executive, the entity charged with carrying out such reviews has varied over time. A primary reason for this has been the involvement of the President in deciding when and how to carry out such reviews. Thus, such policy reviews and the development of new strategies have not been fixed in nature, and have depended upon the personalities and needs present at the time.

¹¹¹ NSC-68: United States Objectives and Programs for National Security (April 14, 1950): A Report to the President Pursuant to the President's Directive of January 31, 1950 [cited 18 Aug 2005]; available from <http://www.fas.org/irp/offdocs/nsc-hst/nsc-68.htm>.

¹¹² Commission on Integrated Long-Term Strategy (U.S.), Discriminate Deterrence: Report of the Commission on Integrated Long-Term Strategy (Washington, DC: U.S. G.P.O., 1988).

¹¹³ United States. President George H.W. Bush (1989-1993), National Security Review (NSR) 12: Review of National Defense Strategy 1989 [cited 15 Dec 2006]; available from <http://bushlibrary.tamu.edu/research/nsr/nsr12.pdf>. For the speech which reflected the results of the Review, see also United States. President George H.W. Bush (1989-1993), Remarks at the Aspen Institute Symposium in Aspen, Colorado, on 02 Aug 1990 [cited 15 Dec 2006]; available from <http://bushlibrary.tamu.edu/research/papers/1990/90080206.html>.

Some of these ad hoc reviews have been spurred by changing international features. For example, the Cold War occasioned the creation of a number of strategies centered around the idea of containment, as mentioned in Chapter 1. One of the most significant of these was NSC-68, as mentioned above. NSC-68 is notable in that it served as the basis for much of US national security strategy thinking for dealing with the Soviet Union. The document was not simply a military strategy, but included consideration of economic, political and psychological matters.¹¹⁴ Despite being published as a classified NSC document, NSC-68 was actually not a product of the NSC, "but rather of a joint State-Defense Department study group".¹¹⁵ During the years that Henry Kissinger served as NSC Advisor and Secretary of State, the US national strategy became less broad-based and more focused on purely military matters. The emphasis on military strategy has continued in the years since, although some insiders have attempted to lessen the reliance of US strategic thinking on military options.¹¹⁶

Likewise, it was the Soviet invasion of Afghanistan that provided much of the emphasis for what became known as the "Carter Doctrine" in 1980. In his State of the Union Address that year, President Carter announced that any move by a power to take control of the Persian Gulf region would be prevented by the US, using any necessary means, including military force.¹¹⁷ Such policy announcements may also be regarded as ad hoc and irregular in frequency, and will be discussed in more detail in Chapter Three.

¹¹⁴ NSC-68: United States Objectives and Programs for National Security (April 14, 1950): A Report to the President Pursuant to the President's Directive of January 31, [cited date as above].

¹¹⁵ John Allen Williams, "The National Security Establishment: Institutional Framework for Policymaking," in *National Security Strategy: Choices and Limits*, ed. Stephen J. Cimbala (New York: Praeger, 1984), 326.

¹¹⁶ S. P. Huntington, "The Evolution of U.S. National Strategy," in *U.S. National Security Strategy for the 1990s*, ed. Daniel J. Kaufman, David S. Clark, and Kevin P. Sheehan (Baltimore: Johns Hopkins University Press, 1991). Huntington was "involved" with the Presidential Review Memorandum 10 (PRM-10) during the Carter administration, and he tried to make a return to the broad-based approach/concept of NSC-68; he was disappointed that the "output", PD-18, was again devoted mostly to military matters.

¹¹⁷ United States. President Jimmy Carter (1977-1981), State of the Union Address [Delivered 23 January] 1980 [cited 16 May 2006]; available from <http://www.jimmycarterlibrary.org/documents/speeches/su80jec.phtml>.

While never easy, in the years since the end of the Cold War, achieving bipartisan consensus on national security policy has proved especially difficult.¹¹⁸ There has not been a security strategy developed since the fall of the USSR that has been as widely accepted as the containment of the Soviet Union was. The fall of the Soviet Union changed how threats were defined and military force structures were planned in response.

While the world is arguably safer from the threat of an inter-state nuclear exchange now, it is also less stable. The lack of a need for global containment led to an ability to emphasize regional focuses on economic issues and regional stability in the 1990s.¹¹⁹ The terrorist attacks of 11 September 2001 have proven to be a catalyst for discussion about the threats of sub-state terrorism and weapons of mass destruction, but a broadly accepted bipartisan national security policy has not yet emerged. Democrats and Republicans continue to wrangle over policies meant to address terrorism and WMD, with Iraq being an obvious point of contention.¹²⁰ Indeed, the ongoing US involvement in Iraq has exposed differences of opinion within the Republican party over national security policy.¹²¹ The 2002 NSS formulated by the Bush administration may become a lasting strategy, but it possesses contentious aspects that do not bode well for it becoming as widely accepted in Washington policymaking circles as containment was in years past.

¹¹⁸ Taylor and Snider, "U.S. National Security Agenda and U.S. National Security Policy: Realities and Dilemmas," 103.

¹¹⁹ Ibid., 105-106.

¹²⁰ Walter Pincus, "Democrats Who Opposed War Move into Key Positions: New Committee Chairmen Had Warned of Postwar Disorder," Washington Post, 04 Dec 2006.

¹²¹ David E. Sanger, "Dueling Views on Diplomacy Pit Baker against Rice," The New York Times, 08 Dec 2006. See also John M. Broder and Robin Toner, "Report on Iraq Exposes a Divide within the G.O.P.," The New York Times, 10 Dec 2006.

The National Security Act was passed in July 1947, and created a number of new agencies such as the National Security Council (NSC) and Central Intelligence Agency (CIA).¹²² The Act also established the National Military Establishment (NME). The NME included the executive departments of the Army, Navy, and Air Force, as well as other bodies. A new configuration was also created within the US military, the Joint Chiefs of Staff (JCS).

Congress implemented an important statutory change to the National Security Act of 1947 in the form of the National Security Act Amendments of 1949, which were passed in June of that year. Several modifications were brought about by the Amendments. The NME was renamed the Department of Defense and "upgraded ... to an executive department". The Amendments also bolstered and clarified the authority of the Secretary of Defense, and created the position of Chairman of the JCS. Further, the standing of the military services were diminished, as they were redefined as departments within Department of Defense; a part of this redefinition included the removal of the service Secretaries as statutory members of the NSC.¹²³

The primary purpose of the Amendments was to address problems associated with the position of the Secretary of Defense. These problems stemmed from the Secretary of Defense's lack of ability to manage a decentralized military structure. James Forrestal, who had been appointed by President Truman as the first Secretary of Defense, had previously (as Secretary of the Navy) championed this decentralization. However, after

¹²² National Security Act of 1947, Public Law 80-253, (July 26, 1947).

¹²³ Danny H. Struble, "Contextual Influences in the Development of the National Security Council System" (University of Southern California, 1993) 205-206.

assuming the office of Secretary of Defense, Forrestal came to see this position as unworkable as initially configured.¹²⁴

The NSC was seen as important in increasing coordination and cooperation "between political and military agencies"; that is, integrating the policies of defense agencies and foreign relations agencies.¹²⁵ The NSC was envisioned as being an agency which would gather and analyze information for the President and offer expert advice on matters of national security. The NSC has always been advisory to the President, unlike some other departments such as the Department of State. The NSC was not conceived of as a policymaking entity, and has not functioned as one during its history (with perhaps some brief exceptions, such as when some NSC staff stepped outside of these bounds during the Iran-Contra scandal). Yet, while the NSC was not formally charged with policymaking at its creation, contemporary observers detected a threat in the NSC potentially assuming much of the State Department's role as the premier formulator and conductor of foreign policy on the President's behalf.¹²⁶

The National Security Act intended that NSC staff be overseen by an Executive Secretary. Eisenhower created the position of "Special Assistant" in 1953, and the Executive Secretary position has remained vacant ever since. The Special Assistant (often referred to as "Advisor") does not need Senate approval. Presidents have often forbidden them from testifying before Congress.¹²⁷

The NSC was originally legislated to include the President, Secretary of State, Secretary of Defense, and Secretaries of the Army, Navy, and Air Force. Also, several statutory

¹²⁴ Ibid.

¹²⁵ Leffler, *A Preponderance of Power* 176.

¹²⁶ Dulles, *War or Peace* 235-236. And in fact, Dulles viewed the nascent NSC as a "top policymaking body", even though President Truman was determined that the Council operate in an advisory capacity.

¹²⁷ Williams, "The National Security Establishment: Institutional Framework for Policymaking," 325.

members were included that no longer exist, such as the Chairman of the National Security Resources Board (NSRB), Chairman of the Munitions Board, Chairman of the Research and Development Board, and the Director for Mutual Security. Additionally, other cabinet members could be included as members if the President so desired. As mentioned, the 1949 Amendments dropped the three military service Secretaries from the Council; they also added the Vice President.¹²⁸

Since the creation of the Department of Defense (DoD), there has been a trend to further centralize strategic planning and budgeting within the Department. Notably, advocacy of increased centralization has continued both in terms of planning and implementation, as made apparent in recent discussion of the extent to which defense intelligence functions should be combined.¹²⁹ A similar effort may currently be seen in attempts to consolidate government power in the Executive branch, and to consolidate Executive branch power in institutions close to the Executive Office of the President.¹³⁰ As regards the Department of Defense, this trend is evidenced most by successive legislative efforts to increase the authority and purview of the Secretary of Defense, a position that was itself created by the same Act that established the DoD, and the NSC, among other provisions. These efforts occurred in tandem with moves to unify the various military services, in terms of command, planning, and budgeting.

Even after the DoD was created, the services engaged in bitter disputes about the nature of future threats, US security needs, their role in meeting those needs – and thus their share of a limited defense budget. Each service saw their own role as the one of most use to meeting new and future challenges. Each had its own planning process which

¹²⁸ National Security Act of 1947.

¹²⁹ Walter Pincus, "Gates May Rein in Pentagon Activities: Nominee Has Opposed Defense Department's Dominance in Intelligence Efforts," Washington Post, 14 Nov 2006.

¹³⁰ Peter Baker and Michael Abramowitz, "A Governing Philosophy Rebuffed: Ruling Emphasizes Constitutional Boundaries," Washington Post, Friday, June 30, 2006 2006.

created budget requests and conducted its own research to support those requests. As one might imagine, these separate planning processes with each emphasizing (perhaps over-emphasizing) the role to be played by the service which sponsored it, resulted in a regular situation in which the budget requests being made by the military were much too high to be feasible. The individual budgets and funding requests, when taken together, far exceeded the funding that the Congress could reasonably be expected to provide.

Early efforts to curb this tendency were made by the first Secretary of Defense, James Forrestal, who attempted to coax the heads of the military services into agreeing to voluntary reductions in their respective budgets. His attempts were not very successful, and the continuing issue of incompatible budget requests prompted further efforts to centralize planning and curb excessive requests. Successive defense reorganizations successfully centralized power, administratively, with the Secretary of Defense. The Secretary's powers were "progressively enhanced" by the 1949 Amendments and by reorganizations in 1953 and 1958.¹³¹

This formation and evolution of the national security structure, in particular the Defense Department and the NSC itself, had some influence on other agencies in the US federal bureaucracy. It is outside the scope of this investigation to attempt to comprehensively identify any agency or departmental development that was catalyzed by the creation of the NSC structure. However, it is important to remember that government structures not strictly *within* the NSC were evolving concurrently. One such bureaucratic evolution that was bit within the NSC *structure*, but which was responding to similar environmental stimuli, was the Policy Planning group at the US Department of State.

George Kennan set up and was the first director of the Policy Planning Staff: "the first

¹³¹ Stephen J. Cimbala, "The Role of Military Advice: Civil Military Relations and Bush Security Strategy," in U.S. Civil-Military Relations: In Crisis or Transition?, ed. Don M. Snider and Miranda A. Carlton-Carew (Washington, DC: Center for Strategic & International Studies, 1995), 90.

regular office of the Department of State to be charged in our time with looking at problems from the standpoint of the totality of American national interest, as distinct from a single portion of it".¹³² It was another head of the Policy Planning Staff, Paul Nitze, who was the main architect of NSC-68, one of the ad hoc policy exercises mentioned above.

The Goldwater-Nichols Reorganization Act of 1986 marked a significant revision to national security structures. The Act was itself part of an already ongoing trend that saw Congress attempting to shift power away from the Executive branch on matters of national security (this is discussed in more detail below in Section 2.2, with special attention paid to budgetary aspects). A significant facet of the Goldwater-Nichols Act was its emphasis on centralizing the military structure within the Department of Defense.¹³³ The role played by the Secretary of Defense – the civilian responsible for overseeing all the civilian and military operations of the Department of Defense – had been strengthened over the years, as mentioned above. With regard to the structure of the military leadership within the Department of Defense, however, efforts to centralize power had been less successful.

Congress was dissatisfied with the ability of the military leadership – the Joint Chiefs of Staff (JCS) – to provide comprehensive, national, military advice. The JCS was instead seen to be providing "service oriented" advice that precluded more integrated defense analysis. Congress viewed the primary reason for this to be a lack of centralized military authority. Before 1986 the JCS still operated by consensus. Congress intended Goldwater-Nichols to provide the Chairman of the JCS with "independent political

¹³² Kennan, *American Diplomacy, 1900-1950* v.

¹³³ Goldwater-Nichols Department of Defense Reorganization Act of 1986, Public Law 99-433, (October 1, 1986).

clout" that was distinct from the power held by the JCS as a committee.¹³⁴ The 1986 Act called for the Chairman to function as the primary military leader for the formulation of strategy. In addition to strengthening the position of the Chairman of the JCS, Goldwater-Nichols increased the authority of the CINCs – those professional military Commanders-in-Chief who oversee regional commands which integrate the individual US military services.¹³⁵

Colin Powell was the first Chairman of the JCS to assume that office after the 1986 reorganization. He was the first to try to implement the mandate of the Act and produce a JCS *National Military Strategy* (NMS).¹³⁶ Powell's planning was based on the concept of a "Base Force" - the minimum force with which the US "could continue to function as a global superpower". Powell's NMS developed from the Base Force concept, and the Base Force concept from the 1989-1990 Joint Strategic Capabilities Plan (JSCP). The increased power of the Chief of the JCS under Powell was what Congress intended when passing Goldwater-Nichols.¹³⁷

Williams has noted several trends that appear pertinent when considering the origins and evolution of the NSC, JSC, and DoD. First, the National Security Assistant has become increasingly important to the Executive (and one might add that as a consequence the position of Secretary of State has been diminished to some degree). Second, the authority of the Secretary of Defense as an individual, and the DoD as an organization, have generally been increasing since their creation. Third, the authority of

¹³⁴ Cimbala, "The Role of Military Advice: Civil Military Relations and Bush Security Strategy," 105.

¹³⁵ Ibid., 90.

¹³⁶ Ibid., 90-91. Powell was appointed Chairman of the JCS after previously serving as military assistant to Secretary of Defense Weinberger, Deputy NSC Advisor, and NSC Advisor. Of interest in light of the future makeup of the Bush administration in 2000-2004 is the fact that at the time, Dick Cheney was Secretary of Defense and Paul Wolfowitz was Undersecretary of Defense for Policy.

¹³⁷ Ibid.

the civilian military secretaries (Secretaries of the Army, Navy, and Air Force) has generally decreased during the same period.¹³⁸

Finally, for all the effort devoted to developing and refining these bureaucratic structures, it is important to understand their limitations. US national security agencies do not tend to evolve into forms which provide for optimum efficiency or efficacy. The development of these agencies are subject to the perceived needs and pressures of the moment. They are designed by political actors who operate in a contentious political context that is affected by domestic issues which require compromise.¹³⁹

The assumption that national security agencies do not, in fact, *impede* the formation and execution of national security policy has been associated with "realist" arguments. There is not uniform agreement with this assumption. Some "institutionalist" arguments contend that agencies are created by self-interested groups and individuals, and so do not necessarily further an objective "national interest". Such arguments stress the role played by special interest groups, and the self-interest of politicians themselves, in the formulation of national security agencies. However, these institutionalist claims appear to underestimate the practical politics of Presidents and bureaucrats – individuals who may be more interested in national objectives and protecting agency interests than in pleasing the special interests seeking to influence them.¹⁴⁰ One may not agree with the conclusion that due to special interests and practical politics, agencies in the US "are not and cannot be designed to serve any broad-based conception of national interest".¹⁴¹ However, the warning that the formulation and functioning of bureaucratic structures

¹³⁸ Williams, "The National Security Establishment: Institutional Framework for Policymaking," 324.

¹³⁹ Amy B. Zegart, *Flawed by Design: The Evolution of the CIA, JCS, and NSC* (Stanford, CA: Stanford University Press, 1999) 53.

¹⁴⁰ *Ibid.* 13.

¹⁴¹ *Ibid.* 14.

owes as much to politics as to the objective identification of national security needs is a valid one.

National Security Strategy (NSS) Documents

A number of reports focusing on US national security strategy had been produced by structures within the Executive branch prior to the passage of Goldwater-Nichols in 1986. However, these had not been produced consistently and were seen to be deficient. For example, 25 years prior to the requirement for a published NSS, the NSC was producing a document *intended* to lay out agreed strategies and priorities in national security and defense planning: "National strategies and priorities were supposedly set forth in an agreed National Security Council document called the Basic National Security Policy. However, the Basic National Security Policy was a vague compromise document that provided little real guidance on how defense dollars should be spent."¹⁴² These periodic statements on Basic National Security Policy were policy statements "largely based on institutional tradition", but they were of limited use in guiding the planning and budgeting of the services.¹⁴³

Congress mandated an annual NSS report from the Executive as part of the Goldwater-Nichols Reorganization Act.¹⁴⁴ Congress wished to foster strategic thinking in the Executive branch, which was a primary reason for the legislated requirement that the President "present an annual report on the 'National Security Strategy of the United States'".¹⁴⁵ In addition to mandating an annual report from the administration, it also

¹⁴² Jordan, Taylor, and Mazarr, *American National Security* 76.

¹⁴³ *Ibid.* 200.

¹⁴⁴ Goldwater-Nichols Department of Defense Reorganization Act of 1986.

¹⁴⁵ Daniel J. Kaufman, David S. Clark, and Kevin P. Sheehan, eds., *U.S. National Security Strategy for the 1990s* (Baltimore: Johns Hopkins University Press, 1991) 1.

mandated that incoming administrations must publish their first NSS within five months of entering office.¹⁴⁶ None of the incoming administrations in the years since 1986 (those of George H.W. Bush, Bill Clinton, and George W. Bush) have made the five-month deadline.

Nevertheless, the mandate that the Executive must produce and publish a National Security Strategy annually is a significant development. It will be important to consider whether or not the production of the National Security Strategy has also been significant in practical terms. National Security Strategy documents will be investigated in more depth in Chapter Three.

2.2 Processes

Process Of Executive – Legislative Relations, Law-Making, and Budget Appropriations

The two constitutional structures involved in budget appropriations are the Congress and the Executive. The Executive is given the constitutional authority to command, and so administer, the military. The Congress is given the authority to raise and fund the military. The US Constitution also specifies that Congressional appropriations for the support of armies may be no longer than two years; this ensures that the Congress is involved in evaluating needed military resources on an ongoing basis.

The Congress then must consider on a regular basis the amount of funding required to support the military. The military itself falls under the control of the Executive, and so it

¹⁴⁶ Lawrence J. Korb and Council on Foreign Relations, *A New National Security Strategy in an Age of Terrorists, Tyrants, and Weapons of Mass Destruction: Three Options Presented as Presidential Speeches* (New York, NY: Council on Foreign Relations Press, 2003) 13.

is the Executive – either the President himself, or the senior civilian leadership or senior military leadership acting on his behalf – that request a certain level of funding. It is likewise the Executive which must justify the amount to the Congress.

In the past, the Executive has shown an appreciation for the capacity of the Congress to help or hinder its policies in ways less direct than through voting on appropriations bills. President Ronald Reagan once stated that national security must be developed and implemented by both the President and the Congress; this sentiment was also expressed by Secretary of State Henry Kissinger in 1975. It is pointed out that neither man was "overly fond of Congressional involvement"; but both accepted that the cooperative development of security policy would increase its legitimacy and be perceived abroad as the expression of a unified US government.¹⁴⁷

The defense budget is essential; in practical terms, any strategies or operations planned can only be implemented if funded.¹⁴⁸ Of course, not all possible strategies *can* be funded: "ideal security goals are essentially unlimited".¹⁴⁹ Therefore, allocating resources to national security involves trade-offs; there is an opportunity cost when funds are designated for security, and some level of risk must be identified that is acceptable to the government and its citizens.

Constant bargaining attends the particulars of any US federal budget, and the national security budget is part of this overall budget. It is often difficult to definitively demonstrate which parts of the budget should be thought of as the "national security

¹⁴⁷ George C. III Edwards, "Congress and National Strategy: The Appropriate Role?," in U.S. National Security Strategy for the 1990s, ed. Daniel J. Kaufman, David S. Clark, and Kevin P. Sheehan (Baltimore: Johns Hopkins University Press, 1991), 93.

¹⁴⁸ Taylor and Snider, "U.S. National Security Agenda and U.S. National Security Policy: Realities and Dilemmas," 112.

¹⁴⁹ Jordan, Taylor, and Mazarr, American National Security 197.

budget", and how to delineate related activities such as military defense, counterterrorism, and intelligence gathering.¹⁵⁰ Nevertheless, the defense budget unquestionably comprises the most sizeable portion of the national security budget, if one considers the national security budget to include funding for defense, homeland security, and other activities related to addressing terrorism threats. The awesome size of the defense budget is in little threat of drastic reduction in the near future. The total federal budget and its allocation among federal departments and agencies is not as flexible as one might suppose. Previous decisions, recent events, and current political realities all limit the flexibility of budget planning. Additionally, there exists an organizational inertia to defense policy and planning, with each constituent player possessing its own unique resistance to change.¹⁵¹

Congress sometimes uses the "annual authorization/appropriations process to deny the President his preferred options when important policy disputes exist between the branches".¹⁵² The influence of domestic issues on national security policy is great, since such policy formation is a joint activity, or perhaps more accurately a joint struggle, (as Corwin puts it) between the Executive and Congress.¹⁵³ Yet the greatest constraints on the budget concern allocations within the same broad scale of spending visible over recent decades, rather than a consideration of unintended side-effects. There is no significant movement on the part of lawmakers to reevaluate the wisdom of the overall size and aim of the defense budget. As has been pointed out, budget planners in

¹⁵⁰ Steven M. Kosiak, "Funding for Defense, Homeland Security and Combating Terrorism since 9-11: Where Has All the Money Gone?," (Washington: Center for Strategic and Budgetary Assessments, 2003).

¹⁵¹ Cimbala, "The Role of Military Advice: Civil Military Relations and Bush Security Strategy," 89. This same sort of resistance to organizational change and new methods of interagency coordination may be seen in the efforts to implement the new US Department of Homeland Security; see Michael E. O'Hanlon et al., *Protecting the American Homeland* (Washington: Brookings Institution Press, 2002).

¹⁵² Carter, "Budgeting for Defense," 171.

¹⁵³ Taylor and Snider, "U.S. National Security Agenda and U.S. National Security Policy: Realities and Dilemmas," 108.

Washington have expressed little agreement with worries laid out by Paul Kennedy about the applicability of "imperial overstretch" to the US.¹⁵⁴

Efforts have taken place over the years to centralize planning and improve budget formulation, for example so that the services were not independently requesting the bulk of the funding considered feasible. While President Truman sometimes preferred to receive advice from the Bureau of the Budget rather than the NSC, under President Eisenhower the NSC played an increased role in reviewing proposed defense expenditures and effectively replaced the Bureau of the Budget in this function.¹⁵⁵ A Joint Strategic Objectives Plan (JSOP) was introduced in 1955-1956 which was prepared by the JCS and meant to integrate the individual service plans; in practice, it did not relate the military requirements it identified to budget ceilings, and so always far exceeded the ceiling and had little impact on the process.¹⁵⁶ While this approach had attempted to explicitly take into account the perceived budget ceiling of the Congress, it had in fact led to the Executive balancing its service requests without much strategic thinking behind its budgeting. This approach, which emphasized Congressional budget ceilings, was viewed as unsuccessful by the incoming Kennedy administration and done away with.¹⁵⁷ Yet the attempt to operate under such budget ceilings, and the decision to discontinue the attempt in search of something better, point to an appreciation within the Executive branch that improvements in its own budget formulation process were desirable.

¹⁵⁴ Stephen Daggett, "The American Economy, the Defense Budget, and National Security," in U.S. Domestic and National Security Agendas: Into the Twenty-First Century, ed. Sam Charles Sarkesian and John Mead Flanagan (Westport, CT: Greenwood Press, 1994), 66-68. Paul Kennedy's masterful and influential argument is laid out in Kennedy, *The Rise and Fall of the Great Powers*.

¹⁵⁵ Richard A. Best, *The National Security Council: An Organizational Assessment* (Huntington, NY: Novinka Books, 2001) 54. See also Jordan, Taylor, and Mazarr, *American National Security* 199-201.

¹⁵⁶ Jordan, Taylor, and Mazarr, *American National Security* 201.

¹⁵⁷ *Ibid.* 76.

For its part, Congress has become more willing over the years to impose its will on the national security policies of the Executive through explicit terms of the appropriations bills it passes. Congress may disagree with the administration's assessment of threats confronting the US, or specific responses; at such times it may act to limit the Executive from taking action. The legislation that was passed in the form of prohibitions within defense appropriations bills during the Vietnam War were unprecedented in scope at that time. They limited the use of ground troops in certain areas, and likewise limited the use of air power, and restricted funding from being used to support third party ground troops in those areas.¹⁵⁸

In legislative terms, the visible effects of this Congressional willingness to try to constrain the Executive continued in the decade after the US pull-out from Vietnam, or even longer. This trend included the War Powers Resolution of 1973.¹⁵⁹ This Resolution aimed to emphasize the circumstances in which the President could use the armed forces under the Constitution, and to set a procedure by which the Congress and the Executive should jointly participate in decisions to send US forces into combat. It requires that the President inform the Congress whenever US forces are sent into hostilities or imminent hostilities. It then requires that the President terminate the use of such forces within 60 to 90 days, unless Congress authorizes their continued use. However, the Resolution was initially passed over the veto of President Nixon, and every President since then has taken the view that the central tenets of the Resolution are unconstitutional and so not legitimate.¹⁶⁰ Of over 100 reports submitted by the Executive to Congress since the passage of the Resolution, only one has explicitly addressed the 60 to 90 day time limit. This reticence to abide by the provisions of the

¹⁵⁸ Carter, "Budgeting for Defense," 169.

¹⁵⁹ War Powers Resolution, Public Law 93-148, (November 7, 1973).

¹⁶⁰ Richard F. Grimmett, "The War Powers Resolution: After Thirty Years," (Congressional Research Service, 2004).

Resolution is not exhibited solely by the Executive branch, however. The Congressional Research Service has noted that at times the Judiciary, and even the Congress itself, have been unwilling to apply the War Powers Resolution more stringently.¹⁶¹

Also in 1973, NATO allies were required to make greater contributions to the cost of stationing US troops in their countries, against the wishes of the Executive branch.¹⁶²

The Budget Reform Act was passed in 1974, requiring the Executive to spend funds that Congress had allocated for specific purposes. Congress also prohibited funds from being used in Angola in 1975. This affected CIA combat operations supporting anti-communist forces. The Boland amendments of 1982 and 1984 outlawing support for the Contras in Nicaragua, a nuclear freeze resolution in 1983, and "close Congressional oversight" of the 1991 Gulf War and peacekeeping operations in the 1990s continued this trend.¹⁶³

The decisionmaking function in the Executive has become more centralized since 1947; during those same years, the Congress has at times assumed a greater role in oversight and involvement in national security affairs. At the same time, decisionmaking in Congress has become decentralized, with a reduction in the strength of the two parties and the role of committee chairmen, and an increase in the role and number of special interest groups. These two trends are seen to portend continuing disagreement between the two branches over the assessment of threats and the character of the overall security environment, and identification of national security objectives.¹⁶⁴

¹⁶¹ Ibid.

¹⁶² Cecil Van Meter Crabb, Glenn J. Antizzo, and Leila E. Saredidine, *Congress and the Foreign Policy Process: Modes of Legislative Behavior* (Baton Rouge: Louisiana State University Press, 2000) 39-50.

¹⁶³ Cecil Van Meter Crabb and Pat M. Holt, *Invitation to Struggle: Congress, the President, and Foreign Policy*, 4th ed. (Washington, DC: CQ Press, 1992). See 187, 278, and 264, respectively.

¹⁶⁴ Jordan, Taylor, and Mazarr, *American National Security* 232-233.

As can be seen, the relationship between the Executive branch and the Congress is a tensioned one, and agreeing on a national security strategy that can be funded in terms of the defense and overall federal budgets can indeed be a struggle. An important point to keep in mind is that this tension exists constantly, to a greater or lesser degree, regardless of changing international circumstances. One point Ralph Carter makes is that although fluctuations in overall defense spending seem reflective of broad changes in international politics – falling during detente in the 1970s or rising after the Soviet invasion of Afghanistan – Congress has exercised significant influence within the parameters that were broadly defined by superpower relations and other international politics.¹⁶⁵ At the same time, in practice the formulation and justification for the funding request has resulted in an annual budgeting process that is at once extremely detailed, and tending toward inertia.

At the highest strategic level, the formulation of funding requests is based on the pronounced security and defense objectives of the administration in office. While changes in those high-level security and defense objectives may challenge the status quo, they may also bolster the institutional inertia of the military. Multi-year timescales for researching, developing, and producing updated weapons systems may add to this inertia; and this may well be augmented by the Congress, whose members often have constituents with vested interests in the production of new weapons systems. The planning and budgeting system itself may lead to inertia, as the process of reevaluating an immense budget on an annual basis does not lend itself to radical changes.

It is also possible for an administration to propose a national strategy that calls for the implementation of various specific means. However, the administration may request

¹⁶⁵ Carter, "Budgeting for Defense," *passim*. See also 162-168.

that only certain facets of its strategy are funded; or it may request funding at a level which would make the complete implementation of its policy problematic. The proposed means may well have implications for a variety of US departments and agencies involved in defense, diplomacy, and other activities.

It is *possible* that some budget requests are essentially rhetorical, and primarily intended to send a political signal. For example, some have wondered whether President Reagan's support of funding for his Strategic Defense Initiative (SDI) might have served an immediate, practical political purpose, quite apart from what technological achievements might be gained in the future – achievements that many viewed as unattainable and unrealistic. Strong presidential backing of SDI is seen as having been important in prompting the Soviet Union to re-engage in negotiation with the US.¹⁶⁶ Some Reagan administration officials seem to have considered SDI to function primarily as a bargaining ploy, rather than as a feasible strategy.¹⁶⁷ It is impossible to say with certainty which individuals may have truly believed in the efficacy of SDI, and which may have viewed it as useful in terms of rhetoric, regardless of the level of funding it received.¹⁶⁸ However, the fact that at least some high-level officials viewed the initiative in practical negotiating terms seems to suggest that the Executive does not expect – and may not really desire – every budget request and policy initiative that is produced to receive full funding.

¹⁶⁶ Colin Gray, "Deterrence and Strategic Defense: A Positive View," in *The Strategic Defense Debate: Can "Star Wars" Make Us Safe?*, ed. Craig Snyder (Philadelphia: University of Pennsylvania Press, 1986), 175.

¹⁶⁷ Matthew Evangelista, *Unarmed Forces: The Transnational Movement to End the Cold War* (Ithaca, NY: Cornell University Press, 1999) 332-333.

¹⁶⁸ The beliefs that individual officials held with regard to SDI, and how they saw its primary usefulness, is somewhat contested. Evangelista points out that regardless of his deputies' views, President Reagan seems to have held a genuine belief in the inherent value of developing SDI. See *Ibid.* See also Mark W. Davis, "Reagan's Real Reason for SDI," *Policy Review* (2000).

All of this is to say that in terms of strategy and funding, the overarching strategy – the goals and the means of achieving them – may be funded to a greater or lesser degree. This will not necessarily change the stated strategy; the administration is not required to reconcile the stated strategy with the level of funding that has been attained through the budgeting process. In practical terms of course, all governments must reconcile available resources with their preferred strategic objectives.

The reasons an administration's national security strategy may not receive the funding required to implement it fully may vary, regardless of its importance in terms of providing strategic vision and an identification of broad ends and means. This may be due to Congressional opposition to the premises or conclusions of that strategy, or opposition to particular means. It may be due to very practical fiscal considerations that Congress is mindful of, even if the strategy enjoys general support. If an administration's strategy receives less funding than required to fully implement it, this may be unfortunate in the view of the administration; or, the administration may have never expected to receive the resources necessary to implement all facets of its strategy. Just as the identification of strategic goals and objectives involves the ordering of a myriad of interests and priorities (as mentioned above in Chapter One), the resourcing of strategic goals and objectives involves another ordering of priorities. In democratic societies, both the political and security goals set by the leadership, and the level of funding approved for their pursuit, are subject to a review in which competing interests and demands must be reconciled – in terms of both public acquiescence, and public support through the allocation of tax dollars.

There is an additional consideration which is related to the possibility that budget requests sometimes appear to be at odds with stated policies. It is possible that an

administration indicates, through its stated national security strategy, that the best means by which to attain its objectives is through reliance on a particular government department. Such a scenario might lead to disproportionate funding of a certain agency in support of the nation's security strategy. Or an administration may identify goals which would appear to fall within the purview of a certain department, but not request additional funding to address these novel objectives. Such inconsistencies may reveal a piece of rhetoric which the leadership is unwilling to back up in practical terms. The more likely possibility is more complicated: that such inconsistencies are due to compromise that is brought about by entities competing for a larger share of the available funding – all the more in the case of an events-driven, substantial increase in the total sum made available for disbursement (e.g., such as occurred after the attacks of 11 September 2001). Before examining NSS 2002, the first mandated national security document to be produced after 11 September 2001, it is first necessary to consider such documents more generally. It is to these mandated NSS documents that we now turn our attention.

3.0 NSS Documents

The thesis will now move on to NSS reports. The post-1945 tradition of national security pronouncements made by US Presidents will be discussed first. Such pronouncements both precede, and form the substance of, modern NSS reports that Presidents are mandated to produce. The place of the NSS as a tool for forming and announcing policy, and its place as a product of compromise and negotiation, will then be explored in turn. Finally, the chapter will appraise variables that influence presidential pronouncements on national security.

3.1 The Post-1945 Tradition of US Presidential Pronouncements on National Security

In the US, the President has historically viewed the articulation of foreign and security policy as part of the duties of the Executive. The right to negotiate treaties is given to the President in the Constitution, and it seems clear that since articulating a foreign policy may often be a necessary precursor for making international agreements, that this role is one intended to be within the purview of the Executive.¹⁶⁹ The formation of foreign policy is meant to be done in consultation with the Congress, to be sure. Yet the President performs a singular role in this regard, through explicit pronouncements and through direction of federal departments. The direction of federal departments includes the making of Cabinet appointments, which are also within the presidential purview.

¹⁶⁹ Constitution of the United States of America. See Article II.

In terms of presidential pronouncements, such pronouncements did not come about in the aftermath of World War II; certainly the Monroe Doctrine articulated in 1823 was one of the earliest examples of the president seeking to publicly establish a precedent in terms of how the US is guided in its foreign policy. One may even consider Washington's Farewell Address as such a presidential pronouncement. In even these earliest examples, presidents attempted to establish a guiding principle that would aid them and future administrations to formulate and implement foreign policies that would ensure the safety of the US.

Sempa conceives of there having been eight US national security doctrines in the history of the nation – with a national security doctrine defined as a state's geopolitical "organizing principle".¹⁷⁰ Although I am somewhat at odds with Sempa's characterization, these various categories may be better thought of as *trends* than as distinct *strategies*. For the most part, these trends were not explicitly reaffirmed by each successive president through publicly-made statements. The eight categories identified are: 1) Washington's Farewell Address; 2) the Monroe Doctrine; 3) Manifest Destiny; 4) the Open Door; 5) Off-shore Balancer; 6) Containment; 7) Liberation; and 8) Preemption. Washington's Farewell Address, the Monroe Doctrine, and Manifest Destiny are seen as existing simultaneously for almost the first hundred years of the nation's history. The Open Door policy is most closely associated with Theodore Roosevelt, and represented the expansion of US influence in the Far East, in both political and commercial terms. The policy was intended to ensure an Asian balance of power that favored US interests.

¹⁷⁰ Francis P. Sempa, U.S. National Security Doctrines Historically Viewed: A Commentary (AmericanDiplomacy.org, 19 Apr 2004 [cited 06 Mar 2006]); available from http://www.unc.edu/depts/diplomat/archives_roll/2004_04-06/sempa_nsd/sempa_nsd.html.

The category "Off-Shore Balancer" is meant to describe the growing US role, joining Britain, as a protagonist in the European continental balance of power; this role grew from the time the US entered World War I to the conclusion of World War II.

Liberation is viewed as particular to the policies of Ronald Reagan, and Preemption is identified with the policies of George W. Bush. In choosing these categories, Sempa distinguished between those doctrines he identified as part of an overarching and enduring strategy, and lesser doctrines that amount to subordinate policies, in his view.¹⁷¹

This examination will focus on the pronouncements made by presidents in the years after the Second World War. Since 1945, such pronouncements have increased in frequency, even if a number of them may fall under the same designation of varieties of containment.¹⁷² While their immediate impact and staying power have varied, these modern presidential pronouncements on national security have helped to frame the Cold War and post-Cold War environments, and the preferred US response to those environments.

These pronouncements were formulated to address immediate concerns, but addressed fundamental concerns in some way that was lasting and of use to successive policymakers. The pronouncements did not amount to the sole policy of the US, or the sum of all US policies. Nevertheless they have been important in terms of their source – the very top of the US political hierarchy – and their timing as responses to the contemporary international environment facing the US. Also noteworthy is their fairly gradual development; even when policies were reversed, it was not done in a jarring way and still kept within the broad concept of limiting Soviet expansion during the Cold

¹⁷¹ Ibid.[cited date as above].

¹⁷² Gaddis, *Strategies of Containment*.

War. Each built on the ones before it, leading to continuity of national security policy. One example would be when the US announced in 1969 that it would oppose communist expansion through support of indigenous fighters.¹⁷³ While this was a change from the more direct military assistance associated with the Truman Doctrine, such direct assistance was not ruled out but rather muted somewhat to allow the US to *not* engage militarily if it so chose.

In order to be inclusive and avoid the potential misstep of viewing individual policies as indistinct from one another due to their similar objectives, an attempt has been made here to include the major presidential pronouncements made in the post-World War II years. Although there are no objective criteria by which one may discern what is presidential "doctrine" and what is presidential "policy", each elected President in the years from 1945 has made a significant policy pronouncement enunciating the orientation of US foreign and national security policy.

This lack of objective criteria also illuminates the subjective nature of presidential "doctrines". While arguably every elected President since 1945 has pronounced a policy which became known as his "doctrine", these can not be said to function as the definitive encapsulation of that President's national security policy. Such pronouncements might be viewed as a single facet, although sometimes a very important facet, of an administration's articulated policy. All of the other facets of policy may not contradict the pronouncement, but can not be said to derive directly from a single Executive pronouncement. That such a policy pronouncement became known in policymaking circles, or the media, or the general public, as a "doctrine" may have as much to do with the receptiveness audiences exhibit toward that policy than its

¹⁷³ United States. President Richard M. Nixon (1969-1974), Vietnamization: Address to the Nation on 03 Nov 1969 1969 [cited 21 Apr 2005]; available from http://www.nixonfoundation.org/Research_Center/Nixons/speeches/Vietnamization.shtml.

inherent substance. In the same vein, it should be remembered that US presidential policies remembered as "doctrine" tend to emphasize security and other military aspects of national policy; all other factors being equal, a certain policy has a better chance of being elevated to the level of a "doctrine" if it has explicit consequences for the potential use of force by the US.

Pre- 20th Century

Washington's Farewell Address and the *Monroe Doctrine*, while outside of the time period under consideration, will be briefly touched upon. There are two reasons for this. First, each was a presidential formulation of policy very similar in form to the presidential pronouncements made by modern presidents, and sometimes referred to as presidential "doctrines". Second, each gained wide currency and have been repeatedly evoked by US presidents since they appeared, although having been made in the early years of the nation's existence.

Washington's Farewell Address encapsulated an idea formulated jointly by Washington and Alexander Hamilton. The Address advocated US neutrality when dealing with other powers, such as France and Britain in Europe.¹⁷⁴ The US, as a young nation still growing geographically, did not possess military or economic power on a par with the traditional great powers of Europe. In such circumstances, Washington felt it most prudent for the US to avoid taking sides in the machinations of European politics. This

¹⁷⁴ United States. President George Washington (1789-1797), The Address of Gen. Washington to the People of America, on His Declining the Presidency of the United States 1796 [cited 13 Dec 2006]; available from <http://www.loc.gov/exhibits/religion/rel06.html>.

was not a call for strict isolationism; Washington's Address advocated extending commerce to all nations, but limiting political connections to them.¹⁷⁵

The Monroe Doctrine was announced at a time when Russia was interested in expanding its holdings in North America; and it was feared that Spain with the help of other European powers might move to regain its colonies which had secured independence during the Napoleonic Wars.¹⁷⁶ The Doctrine warned against further European interference in the political affairs of the Western Hemisphere.¹⁷⁷ One source of the Monroe doctrine actually took the form of a proposal by the British that a joint statement be issued from Britain and the US forbidding further European colonization of the failed or failing Spanish colonies. John Quincy Adams, US Secretary of State at the time, re-fashioned this idea into a unilateral pronouncement. The US was not capable at the time of enforcing the Monroe Doctrine, but Britain in effect enforced it out of self interest.¹⁷⁸ The Monroe Doctrine continued to be cited by presidents into the modern post-1945 era: during Cuban missile crisis; with regard to conflicts in El Salvador and Nicaragua in the 1980s; and on numerous other occasions.¹⁷⁹

Early in the 20th century, Theodore Roosevelt amended the Monroe Doctrine with what became known as the *Roosevelt Corollary*. In order to address what was perceived as a pressing economic security concern in Latin American, it was announced that the US had the right to not only oppose European intervention in the Western Hemisphere but

¹⁷⁵ Eugene V. Rostow, *Toward Managed Peace: The National Security Interests of the United States, 1759 to the Present* (New Haven: Yale University Press, 1993).

¹⁷⁶ Sempa, U.S. National Security Doctrines [cited date as above].

¹⁷⁷ United States. President James Monroe (1817-1825), President's Annual Message to Congress [Delivered 02 Dec 1823] [cited date as above].

¹⁷⁸ John Lewis Gaddis, *Surprise, Security, and the American Experience*, Joanna Jackson Goldman Memorial Lecture on American Civilization and Government (Cambridge, MA: Harvard University Press, 2004) 24.

¹⁷⁹ David W. Dent, *The Legacy of the Monroe Doctrine: A Reference Guide to U.S. Involvement in Latin America and the Caribbean* (Westport, CT: Greenwood Press, 1999) 10-11.

itself to intervene in the domestic affairs of its neighbors if they proved unable to protect US investments in the region on their own.¹⁸⁰

Early 20th Century

Two presidents in the early 20th century made significant contributions to the US conception of national security. An historical tendency had existed for most American statesman, such as John Quincy Adams, to assume a degree of US exceptionalism. In this view, the other nations of the world would never attain the quality of democratic progress that the US had. Woodrow Wilson enunciated an alternative vision, and the repercussions of the ideals he gave voice to can still be discerned in US policymaking. Wilson believed that the spread of democracy and capitalism throughout the world would bring peace and security in a natural, almost organic way. The failure of the League of Nations after World War I prevented Wilson's vision from materializing to a greater degree in his lifetime, and some have directly laid the blame for this failure with Wilson himself: "[Wilson] allowed this interest to exceed the limits of what the United States could accomplish abroad and what Americans would accept at home".¹⁸¹

This Wilsonian idea was to have an immense and continuing impact on the US notion of national security, especially when revived and institutionalized in a more enduring way by Franklin Delano Roosevelt. Harking back to Wilson's ideals and worldview, FDR chose to follow a course of action that stressed multilateralism during World War

¹⁸⁰ Francis Anthony Boyle, *Foundations of World Order: The Legalist Approach to International Relations, 1898-1921* (Durham, N.C.: Duke University Press, 1999). The Roosevelt Corollary was announced 06 Dec 1904. Calvin Coolidge's Undersecretary of State J. Reuben Clark issued a Memorandum in 1928 stating that the US has no right to use military force to intervene in Latin American nations. This repudiated the Roosevelt Corollary; but did not bring an end to US involvement, both overt and covert, in Latin American nations.

¹⁸¹ Gaddis, *Surprise, Security, and the American Experience* 52.

II. This preference for multilateralism and international institutions heavily influenced US policies during the Cold War.¹⁸² FDR is viewed as achieving greater success than Wilson had because of his mindfulness of considerations of power and a pragmatic political calculus. While championing the institutionalization of multilateral processes, FDR "... never neglected, as Wilson did, the need to keep *proclaimed* interests from extending beyond *actual* capabilities."¹⁸³ Far from favoring peace and security over US interests and relative power, Roosevelt sought increased levels of both: "American hegemony ... was now to be global ... [and] *it was to arise by consent*."¹⁸⁴

The emphasis placed on democracy and other liberal values, and the effect that their absence could have on the US – even if that absence occurred in other nations around the globe – was continued by successive administrations, although with somewhat varying interpretations. Wilson and FDR held that US security "was affected by internal conditions in all nations". Truman linked security with conditions in *democratic* nations. Nixon and Carter viewed security as "benefit[ing] from certain *existing* conditions" in the USSR and China.¹⁸⁵

Truman

George Kennan's 1947 article *The Sources of Soviet Conduct* is the first early public articulation of postwar national security policy.¹⁸⁶ Kennan argued that the Soviet Union posed a threat to the US that could be contained, but not ignored. It was this

¹⁸² Ibid. 31. Gaddis asserts that historians are now realizing that FDR was "the most influential grand strategist of the twentieth century" Gaddis, *Surprise, Security, and the American Experience* 39.

¹⁸³ Gaddis, *Surprise, Security, and the American Experience* 47. Emphasis in the original.

¹⁸⁴ Ibid. 54. Emphasis in the original.

¹⁸⁵ May, "National Security in American History," 102-103. Emphasis in the original.

¹⁸⁶ George Kennan, "The Sources of Soviet Conduct," *Foreign Affairs* 25, no. 4 (1947). Kennan's *Foreign Affairs* article was prefigured by the official (and at the time, unpublished) communication made the previous year from his diplomatic station in the Soviet Union, which became known as "The Long Telegram" due to its length; see Kennan, Long Telegram [cited date as above]. See also Korb and Council on Foreign Relations, *A New National Security Strategy in an Age of Terrorists, Tyrants, and Weapons of Mass Destruction: Three Options Presented as Presidential Speeches* 12.

"containment" that Kennan first spoke of that served as the substance of the *Truman Doctrine*. The Truman Doctrine was Truman's decision to "resist aggressive communism", and relied on Kennan's reasoning to conclude that the expansion of communism to new states and regions would be a threat to the security of the US. In immediate, practical terms, the Doctrine provided the logic for providing aid to Turkey as well as Greece, even though Turkey was not in need of relief or reconstruction, nor was it suffering financial distress or internal unrest.¹⁸⁷

After Truman made his speech to a joint session of Congress on 12 March 1947, the news media immediately compared it in significance to the Monroe Doctrine.¹⁸⁸ To a greater or lesser degree, the elevation of a particular Executive stance or public policy to the level of "doctrine" comes down to the discernment of commentators as well as the importance attached to it by the issuing administration. It matters whether the media and political pundits view something as a "doctrine", as their discourse influences the perception of the broader American public. "Doctrine" is an epithet that is usually awarded outside policymaking circles, though such a designation may have been hoped for by the formulators of the policy.

The principles laid out in Kennan's article and Truman's speech were codified in 1948 in NSC-20, which was a secret document produced by the National Security Council and laid out US military and political goals for the Cold War. These were reaffirmed in the more well-known NSC-68, which was drafted in February – April 1950. NSC-68 cited NSC-20 as having identified the Soviet threat well, but asserted that that threat was more imminent than originally thought.¹⁸⁹ Although he himself had conceived the

¹⁸⁷ Leffler, *A Preponderance of Power* 143-145.

¹⁸⁸ *Ibid.* 145.

¹⁸⁹ NSC-68: United States Objectives and Programs for National Security (April 14, 1950): A Report to the President Pursuant to the President's Directive of January 31, [cited date as above]. For a good

policy of containment in Europe, Kennan immediately questioned the sweeping nature of the Truman Doctrine.¹⁹⁰ Kennan disapproved of the propensity of the US to use universal doctrines to "justify particular actions".¹⁹¹

Eisenhower

Containment was attacked as immoral – an abandonment of the subjugated citizens of communist countries – by the opposition Republican party during the 1952 campaign. James Burnham argued that the policy of containment did not go far enough, and wrote several books in the years 1947-1951 arguing for "liberation". This theme was picked up by Eisenhower who talked of the "roll-back" of communism. Interestingly, in the previous administration the official Truman policy was for the "liberation" of North Korea – until the massive Chinese intervention there in October 1950.¹⁹²

For practical reasons, containment was soon supported by the Eisenhower administration after election.¹⁹³ It was Eisenhower's application of containment to a specific region that became known as the *Eisenhower Doctrine*. This doctrine asserted that upon request, the US would use force in response to imminent or actual communist aggression in the Middle East.

Eisenhower announced this policy on 05 January 1957.¹⁹⁴

account of NSC-68 see also Sara L. Sale, *The Shaping of Containment: Harry S. Truman, the National Security Council, and the Cold War* (Saint James, NY: Brandywine Press, 1998) 128-136.

¹⁹⁰ I. M. Destler, Leslie H. Gelb, and Anthony Lake, *Our Own Worst Enemy: The Unmaking of American Foreign Policy* (New York: Simon and Schuster, 1984) 41.

¹⁹¹ Ibid. Quoted from 1967 "Memoirs" p.322.

¹⁹² Sempa, U.S. National Security Doctrines [cited date as above].

¹⁹³ Destler, Gelb, and Lake, *Our Own Worst Enemy: The Unmaking of American Foreign Policy* 46-47.

¹⁹⁴ United States. President Dwight D. Eisenhower (1953-1961), Special Message to the Congress on the Middle East Situation Delivered in Person before a Joint Session on 05 Jan 1957 [cited 11 Dec 2006]; available from <http://www.eisenhower.archives.gov/midleast.htm>.

John F. Kennedy likewise felt the need to add an explicit regional focus to the broad policy of containment. Kennedy's announcement was clearly in immediate response to issues raised because of the Cuban Missile Crisis. In what became known as the *Kennedy Doctrine*, the president announced that the US would oppose the formation of any communist governments in Latin America.¹⁹⁵ Kennedy also laid out in the 22 October speech that regional blocs could take forceful action against a state in their bloc, without UN approval, if they found it to be violating the norms of the bloc – basically an assertion that the OAS was allowed by the UN Charter to act militarily within its own region, for example against Cuba. The pronouncement was viewed as a revival of the Roosevelt Corollary to the Monroe Doctrine: that the US would intervene to prevent a "second Cuba" in its hemisphere.¹⁹⁶

While the Kennedy "doctrine" may not have enjoyed the kind of place in the public's memory as the Truman "doctrine", it still points up a problem of defining presidential "doctrines". Scholars have attributed different characteristics to the Kennedy "doctrine". For example, the policy is viewed alternatively as encompassing the "help any friend, bear any burden" segment of Kennedy's inaugural address. This is a different source than the 22 Oct 1962 speech, and seems to differ from other understandings of what the Kennedy Doctrine signaled.¹⁹⁷ Similarly, another scholar has identified the Kennedy "doctrine" with a policy that US would act against any state in the Middle East who

¹⁹⁵ United States. President John F. Kennedy (1961-1963), Radio and Television Report to the American People on the Soviet Arms Buildup in Cuba on 22 Oct 1962 [cited 13 Dec 2006]; available from <http://www.jfklibrary.org/Historical+Resources/Archives/Reference+Desk/Speeches/JFK/003POF03CubaCrisis10221962.htm>.

¹⁹⁶ Stephen G. Rabe, "After the Missiles of October: John F. Kennedy and Cuba, November 1962 to November 1963," *Presidential Studies Quarterly* 30, no. 4 (2004).

¹⁹⁷ Viet D. Dinh, "How We Won in Vietnam," *Policy Review* (2000).

attacked its neighbors, and viewed it as a commitment to the US protecting Israel.¹⁹⁸

While this sentiment is not dissimilar from the more traditional view of the meaning of the Kennedy "doctrine", it bears a closer resemblance to the Eisenhower "doctrine".

Johnson

Lyndon Johnson's pronouncement that the US would intervene militarily to fight a communist threat to any government in the Western Hemisphere became known as the *Johnson Doctrine*.¹⁹⁹ The Johnson "doctrine" was used as justification for the US invading the Dominican Republic in 1965, although that invasion was initially justified on the grounds of protecting US citizens abroad, and then on the grounds of humanitarian intervention. Importantly, this invasion was the first unilateral military invasion of a sovereign state by the US since the formation of the UN.²⁰⁰

In 1963, a military coup overthrew the government that had been democratically elected in the Dominican Republic in 1962. Subsequently, a revolution against this military dictatorship – and in support of restoring the rule of a social democratic regime – occurred in 1965. Although perception of the threat posed by the revolution varied

¹⁹⁸ Yvonne Yazbeck Haddad, "American Foreign Policy in the Middle East and Its Impact on the Identity of Arab Muslims in the United States," in *Diversity and U.S. Foreign Policy: A Reader*, ed. Ernest J. Wilson (New York: Routledge, 2004).

¹⁹⁹ Stephen G. Rabe, "The Johnson Doctrine," *Presidential Studies Quarterly* 36, no. 1 (2006). General agreement with the policy was indicated by the congressional leadership, with whom Johnson consulted shortly before publicly explaining the US action in the Dominican Republic. See United States Department of State, *Foreign Relations of the United States 1964-1968*, ed. United States Department of State, Office of the Historian, and Bureau of Public Affairs, vol. XXXII: Dominican Republic; Cuba; Haiti; Guyana (Washington: United States Government Printing Office, 2005) 81-84. It is interesting that in a press conference in June 1965, the president himself asserted that his aim was not to enunciate a new "Johnson Doctrine", but rather that his policy was in line with the longstanding position of the US and the Organization of American States. See United States. President Lyndon B. Johnson (1963-1969), *The President's News Conference of June 1 [Transcript]* (John T. Woolley and Gerhard Peters, eds. *The American Presidency Project*, University of California Santa Barbara, 1965 [cited 26 Feb 2009]); available from <http://www.presidency.ucsb.edu/ws/?pid=27013>.

²⁰⁰ Thomas M. Franck and Edward Weisband, *Word Politics: Verbal Strategy among the Superpowers*, *Studies in Peaceful Change* (New York: Oxford University Press, 1971) 79.

widely both in the US and in the rest of Latin America, Johnson and his Undersecretary of State Thomas Mann viewed the prospect of what they saw as the establishment of a communist government unacceptable.²⁰¹ Mann himself was convinced, and felt most others were too, that a rebel victory would result in the establishment of a communist government in the Dominican Republic like that of Cuba.²⁰²

This assessment has been strongly contested by scholars citing evidence supplied by a later fact-finding mission.²⁰³ The Johnson "doctrine" is a good example of broad US policies being adopted by other states for their own use in similar situations elsewhere.²⁰⁴ For example, a strong argument can be made that the Johnson "doctrine" was a strategic mistake that allowed the USSR to easily justify the invasion of Czechoslovakia with the subsequent announcement of the Brezhnev Doctrine.²⁰⁵

Nixon

The issuance of reports that laid out national goals and strategies in light of the contemporary international environment became routine during the administration of Richard Nixon, when that administration released an annual "State of the World Report".²⁰⁶ Yet these relatively regular reports did not rise to the same level of significance as did the presidential pronouncements under investigation here. What became known as the *Nixon Doctrine* was outlined by President Nixon while meeting

²⁰¹ Ibid. 72-77.

²⁰² Richard D. McKinzie, Oral History Interview with Thomas C. Mann (Harry S. Truman Library, 1974 [cited 14 Jul 2006]); available from <http://www.trumanlibrary.org/oralhist/mannt.htm>.

²⁰³ Franck and Weisband, Word Politics 92.

²⁰⁴ Similarly, other states have begun adopting the broad US "doctrine" of preemption announced by the George W. Bush administration; this disquieting trend has potentially devastating consequences for the law-based international order. See Jim Whitman, "Humanitarian Intervention in an Era of Pre-Emptive Self-Defence," Security Dialogue 36, no. 3 (2005).

²⁰⁵ Franck and Weisband, Word Politics 77.

²⁰⁶ Korb and Council on Foreign Relations, A New National Security Strategy in an Age of Terrorists, Tyrants, and Weapons of Mass Destruction: Three Options Presented as Presidential Speeches 12.

with reporters in Guam on 25 July 1969. The event was not a public press conference as such, as the president's remarks were provided to the reporters on a background basis.²⁰⁷ The policy was also defined in an Address to the Nation on the War in Vietnam that Nixon gave on November 3, 1969.²⁰⁸ The Nixon "doctrine" was applied to justify the evolving US approach to the Vietnam War: when the US determined that direct military assistance was not possible, it would train and assist native fighters in the country concerned. The Nixon "doctrine" is seen as part of a trend that modified the concept of security so that US troops would not automatically be deployed in case of conventional aggression or communist encroachment. The policy has been viewed as evidence of what has been recognized as a broader trend in the US approach to the use of force: beginning in the 1960s, importance was placed on limiting "armed conflicts within narrow bounds".²⁰⁹

Carter

What became known as the *Carter Doctrine* was announced on 23 January 1980 in the President's State of the Union Address. The policy asserted that any attempt to gain control of the Persian Gulf by states outside the region would be regarded as an assault on the US, and repelled by force if necessary.²¹⁰ This policy was an explicit response to

²⁰⁷ United States Department of State, *Foreign Relations of the United States 1969-1976*, ed. United States Department of State, Office of the Historian, and Bureau of Public Affairs, vol. I: *Foundations of Foreign Policy, 1969-1972*; Department of State Publication 11017 (Washington: United States Government Printing Office, 2003) 91-92. The Nixon Doctrine was prefigured by similar statements made by Nixon in articles and on the campaign trail before he became president, but his remarks of 25 July 1969 appear to be the first time he explicitly outlined the doctrine as president. For Nixon's earlier statements see United States Department of State, *Foreign Relations of the United States 1969-1976* 5, 48-50.

²⁰⁸ United States. President Richard M. Nixon (1969-1974), *Vietnamization: Address to the Nation on 03 Nov 1969* [cited date as above]. The President mentioned in the Address that the policy had been described as the "Nixon Doctrine".

²⁰⁹ May, "National Security in American History," 101. See also the overview of the Nixon "doctrine" in Franck and Weisband, *World Politics* 156-162.

²¹⁰ United States. President Jimmy Carter (1977-1981), *State of the Union Address* [Delivered 23 January] [cited date as above].

the Soviet invasion of Afghanistan in 1979. The pronouncement was viewed as warning the Soviets away from Iraq, as well as Iran, which had just undergone the 1979 revolution that resulted in the hostage crisis which began in the US Embassy in Tehran. While novel in terms of its focus on the Persian Gulf, the policy displayed continuity with earlier expressions of commitment to containing and mitigating the Soviet threat.

Reagan

In terms of national security policy, the Reagan administration focused almost exclusively on military questions surrounding its relations with the Soviet Union, and also what it perceived as other communist threats, such as certain political movements in Latin America. Analysts point to documents such as National Security Decision Memorandum 32 (NSDM 32) as an example of this focus.²¹¹ Another significant document with a military focus was produced by the Commission on Integrated Long-Term Strategy, which was co-chaired by Fred Ikle and Albert Wohlstetter. This Commission was appointed by President Reagan. In January 1988 it produced a report entitled "Discriminate Deterrence".²¹²

In terms of orientation, some have argued that the Reagan administration's policies are more accurately described as in accordance with the ideals of "liberation" than of containment.²¹³ It is this orientation, perhaps, that distinguishes what is known as the *Reagan Doctrine* from similar presidential "doctrines" announced in earlier

²¹¹ United States. President Ronald Reagan (1981-1989), "National Security Decision Directive Number 32 (NSDD-32)," (1982). See also Huntington, "The Evolution of U.S. National Strategy," 13.

²¹² Commission on Integrated Long-Term Strategy (U.S.), *Discriminate Deterrence: Report of the Commission on Integrated Long-Term Strategy*. For how the report was received, see Paul Kennedy, "Not So Grand Strategy," *The New York Review of Books*, 12 May 1988. See also Michael T. Klare, "A Blueprint for Endless Intervention," *The Nation*, 30 Jul 1988. See also Kaufman, Clark, and Sheehan, eds., *U.S. National Security Strategy for the 1990s* 1.

²¹³ Sempa, *U.S. National Security Doctrines* [cited date as above].

administrations. An expression of the Reagan "doctrine" is found as part of the President's State of the Union Address on 06 February 1985, and spelled out US support anti-communist movements, as well as justifying US support for the contras in Nicaragua and mujahadeen in Afghanistan.²¹⁴

However, the extent to which the policies of Reagan differed substantially from earlier expressions of the containment policy are not clear. To assume that Reagan's relative bellicosity is indicative of an entirely different strategic conception puts too much weight on aspects of Reagan's policy that were hoped would significantly weaken the USSR, and underemphasizes the decades-long role that containment played in that eventual demise. It appears more realistic to view Reagan's policies as containment in a different form.

Another point that has been noted is that while President Reagan seems to have advocated a return to a conception of "liberation" favored at times by earlier presidents such as Eisenhower – or even Truman – that his intentions are hard to judge. This is because for all his outspokenness, Reagan is viewed as relying much more than other presidents on the services of subordinates who would prepare entire addresses for him. Even his State of the Union messages are seen as the creations of others, be they speechwriters or other officials.²¹⁵

What is certain is that Reagan took a more aggressive, moralistic stance against the Soviet Union than his immediate predecessors. This, coupled with the emphasis on military aspects of security, led to the most massive – and expensive – peacetime

²¹⁴ United States. President Ronald Reagan (1981-1989), Address before a Joint Session of the Congress on the State of the Union on 06 Feb 1985 [cited 16 Dec 2006]; available from <http://www.reagan.utexas.edu/archives/speeches/1985/20685e.htm>.

²¹⁵ May, "National Security in American History," 103. This same question exists, to a greater or lesser degree, with all Presidents. However, regardless of the extent to which a President is involved in the conception of a policy – and regardless of how deeply he is personally committed to it – the fact that it is announced and supported by the Executive is the crucial factor.

military buildup in US history.²¹⁶ It was in Ronald Reagan's second term that the Goldwater-Nichols Defense Reorganization Act was passed, in 1986. Reagan then became the first Executive subject to its provisions, which called for an annual NSS document to be issued by the President. The first two NSS reports were subsequently issued by the Reagan administration. The overarching themes and particular significant tenets of policy had already been established, and so these NSS reports were in large part restatements of already declared policy.²¹⁷

George H.W. Bush

The incoming George H.W. Bush administration undertook a review of US national strategy almost immediately upon Bush assuming office in January 1989.²¹⁸ In general, US planning continued to be primarily focused on the military aspects of national security. This focus is reflected in the national strategy review.²¹⁹

However, if the focus on military matters argues for continuity with previous planning, the conclusions drawn by the George H.W. Bush administration were novel. The results of the strategic review were significant and formed the substance of the NSS reports that followed it. The first NSS document produced by the George H.W. Bush administration was released in March 1990; this was before the national strategy review had been completed and announced, and so this NSS document did not incorporate the

²¹⁶ Jordan, Taylor, and Mazarr, *American National Security* 84.

²¹⁷ United States. President Ronald Reagan (1981-1989), *National Security Strategy of the United States*, 1st ed. (Washington, DC: Pergamon-Brassey's International Defense Publishers, Inc., 1988).

²¹⁸ Kaufman, Clark, and Sheehan, eds., *U.S. National Security Strategy for the 1990s* 1. This early focus on national security strategy can not be completely explained by the collapse of the Soviet Union, as the clearest signs of its disintegration occurred after this strategic review had begun.

²¹⁹ Huntington, "The Evolution of U.S. National Strategy," 13.

results of the review.²²⁰ The results of the national strategy review were announced in an 02 August 1990 speech Bush delivered at the Aspen Institute, laying out the need for significant restructuring of the US military for the post-Cold War world.²²¹ The changes envisioned included an overall reduction in force size, and a shift from planning that foresaw a full-scale land war in Europe to planning for smaller potential conflicts of a regional nature.

This shift in strategic thinking drew scholarly attention in the form of investigations not only into the content of the pronouncement, but also the method by which it was announced, the kind of planning that had preceded it, and clarifications and consequences that occurred during its implementation.²²² In a way the strategy spurred some of the initial thinking about the implications of a "post-Cold War" world. Implications of the strategy in particular, and this new international environment in general, received attention. Examples of these new considerations included implications for "alliance relations" as well as for the US military.²²³

Of interest when considering how a major policy becomes popularly known, be it as a "doctrine" or in some other way, is the fact that the change in strategic outlook announced by George H.W. Bush in 1990 was known by several different names. This was particularly true in the time between the initial speech announcing the policy in August 1990, and the publication of the first NSS report spelling out the strategy in August 1991. The August 1991 NSS was the second NSS issued by the George H.W. Bush administration, but the first that incorporated the results of the national strategy

²²⁰ United States. President George H.W. Bush (1989-1993), *National Security Strategy of the United States: 1990-1991*, 1st ed. (Washington, DC: Brassey's (US), Inc., 1990).

²²¹ James John Tritten, *Our New National Security Strategy: America Promises to Come Back* (Westport, CT: Praeger, 1992) xi. The speech was made coincidentally on the day that Iraq invaded Kuwait, and so was understandably somewhat overlooked at first.

²²² Ibid.

²²³ James John Tritten and Paul Stockton, *Reconstituting America's Defense: The New U.S. National Security Strategy* (New York: Praeger, 1992) 1.

review mentioned above. Even then, however, audiences strove to dub it with a moniker that captured its content more thoroughly than simply the 1991 *National Security Strategy*. The various names by which the strategy was known included: "new strategy"; "new defense strategy"; "President's strategy"; "Aspen strategy"; "reconstitution strategy"; "strategy for the new world order"; and others.²²⁴ These constitute an interesting example of how some government policies, such as broad doctrines and NSS reports, are sometimes named as much by the public and press as by the Executive branch.

Clinton

A frequent criticism of the Clinton administration was that it had no consistent foreign policy, and a national security strategy that did little to protect US interests in concrete ways.²²⁵ Clinton himself has been quoted as saying a US grand strategy was not needed; that Truman and FDR had not had one, and he did not intend to manufacture one either. Such a sentiment may display an understanding of early Cold War history at odds with many scholars. However, it is unclear that this justifies the comparison by one scholar of Clinton's administration to that of Harding and Coolidge, due to its loose, "laissez-faire" approach to national security policy.²²⁶

In addition to being accused of exhibiting a controversial understanding of the history of US national strategy, Clinton has also been charged with formulating policies around processes – like democratization – rather than around vital interests and defined objectives. Gaddis argues explicitly that the Clinton administration was influenced

²²⁴ Tritten, *Our New National Security Strategy: America Promises to Come Back* 7-8.

²²⁵ John Dumbrell and David M. Barrett, *The Making of US Foreign Policy*, 2nd ed. (Manchester: Manchester University Press, 1997) 82.

²²⁶ Gaddis, *Surprise, Security, and the American Experience* 77.

greatly by Francis Fukuyama's "End of History" argument. In Gaddis' view, Clinton believed that if democracy and capitalism had indeed triumphed, then the appropriate role for the US was to "engage" and "enlarge" their development rather than develop a grand strategy for the post-cold war, 21st century era.²²⁷

Difficulty in isolating a *consistent* national security policy does not necessarily prove its complete non-existence. Some analysts have attempted to discern an overarching *Clinton Doctrine* from the selective US involvement in international trouble spots. After Rwanda, Clinton is viewed as coming to the conclusion that the US should assume a leadership role in halting genocide and ethnic cleansing: "This perceived newfound willingness to intervene on moral and humanitarian grounds led some commentators to discern a 'Clinton Doctrine'".²²⁸

The decision to use force in Somalia, Haiti, Bosnia and Serbia certainly appeared to be due to a change in the traditional thinking enshrined in the Weinberger-Powell doctrine: in these cases, force was used for goals not necessarily in the US vital interest, and broad public and Congressional support was somewhat lacking.²²⁹

Due to the character of the Clinton presidency, the fact that little time has passed and so the historical perspective is limited, or a combination of both, it is difficult to reduce

²²⁷ Ibid. NSA Advisor Anthony Lake is quoted as speaking of "engagement and enlargement", and the term became the title of the first few NSS reports issued by Clinton.

²²⁸ Korb and Council on Foreign Relations, *A New National Security Strategy in an Age of Terrorists, Tyrants, and Weapons of Mass Destruction: Three Options Presented as Presidential Speeches* 14.

²²⁹ The Weinberger-Powell doctrine, as it became known, is not a national strategy that was made explicit policy at a presidential level. As such, it does not rise to the level of "doctrine" that is generally discussed here. Weinberger-Powell was formulated by Secretary of Defense Caspar Weinberger and General Colin Powell in the 1980s, and laid out conditions which they felt should be met before US forces utilized in combat situations. Weinberger-Powell stressed the need for broad public and congressional support for combat operations, postulated that troops should be sent into combat only when vital US national security interests were at stake, and that overwhelming force should be used when they were sent into combat. This doctrine, therefore, is not a national strategy; it does not lay out perceived US interests and threats, but rather offers criteria pertaining to the appropriateness and desirability of the use of force by the US. Weinberger-Powell remains important in this regard, however, and doubtless has influenced the formulation of US policy, as well as decision-making by US leaders about the use of force. See Stephen D. Wrage, "Civil-Military Relations and the War on Terror," *White House Studies* 4, no. 2 (2004). See also Record, *Making War, Thinking History* 31.

Clinton's national security policy to a single "doctrine" or "grand strategy". Critics have pointed to the NSS reports issued under the Clinton administration as providing evidence supporting the charge of the lack of consistency and focus described above. Others have attached more weight to the ideas expressed in the reports. While scholars may differ when judging the extent to which an articulated foreign policy existed during the Clinton years, the issuance of NSS documents occurred more regularly than during the tenure of the other four presidencies subject to the Goldwater-Nichols reporting requirements.²³⁰ If the Clinton administration's national security policy lacked focus, it did not hinder the production of public NSS reports.

The NSS reports from these years reflect continuity with past national security policies, the identification of some new priorities, and an effort to position both old and new facets within the novel, post-Cold War environment. For example, the 1999 NSS asserted that when US vital national interests are involved, "our use of force will be decisive and, if necessary, unilateral".²³¹ This consideration of the unilateral use of force was both in line with statements of previous US administrations, and foreshadowed the stance taken by the George W. Bush administration that followed the Clinton administration.

Yet the same NSS report divided US concerns into "vital" interests, "important" interests, and interests defined as "humanitarian" in nature. As mentioned above, the Clinton administration did not agree with the Weinberger-Powell doctrine in terms of never using force for reasons other than defending vital interests. However, even in its more expansive view of interests worthy of forceful action, the NSS reports of the

²³⁰ While displaying a high degree of similarity, seven discrete NSS reports were issued in every year from 1994-2000.

²³¹ United States. President William Jefferson Clinton (1993-2001), "A National Security Strategy for a New Century," (The White House, 1999), 19.

Clinton era included most of the features of Weinberger-Powell in its own list of questions to be asked when considering using military force.²³² One notable change was an emphasis placed on economic concerns during the Clinton years. Clinton established the National Economic Council, which was configured along the same lines as the NSC, albeit with 18 members. This move was made because the NSC – staff and principals alike – had traditionally neglected to emphasize economic issues in its operations and deliberations. Clinton's aim was that the work of the NSC and NEC would be integrated.²³³ The advent of the NEC is in line with a trend toward emphasizing the role that economic stability and economic growth play in the concept of national security.²³⁴

3.2 The Place of the NSS in the Framing of US National Security Strategy

A published NSS report is an implement used for multiple purposes. It functions as an expression by the Executive to the Congress to explain strategy and facilitate budgeting.²³⁵ The report is intended to explain US objectives, perceived threats, and how the government intends to prepare for or eliminate them. If successful in carrying out this function, the NSS will facilitate the approval – political and budgetary – of the means required implement the strategy. This is a vital use of the NSS discussed in some depth above in Chapter Two.

The NSS report serves as a similar expression to the US public. It is meant to explain the Executive's view of possible threats, and the President's intended course of action.

²³² Record, Making War, Thinking History 31-32.

²³³ Karl Inderfurth and Loch K. Johnson, eds., *Fateful Decisions: Inside the National Security Council* (New York; Oxford: Oxford University Press, 2004) 101.

²³⁴ May, "National Security in American History," 101.

²³⁵ Joe Bouchard, who was an NSC staffer during the Clinton administration, was heavily involved with the production of NSS documents in the Clinton administration. As he put it, "[t]he National Security Strategy is not explicitly designed to have programmatic substance. It has very significant programmatic implications." Joe Bouchard, Interview, 03 Nov 2006.

The Executive hopes the NSS will engender broad public support for US national security policy. To an extent, constituencies who supported the President's election look for some indication that their particular concerns have been included in strategic thinking.²³⁶ The acquiescence of the broader public is also sought, as it is their taxes that will support an implemented strategy. This function was discussed in terms of the domestic purpose of a state's national security disposition in Chapter One.

Another purpose is to communicate the US perspective, and the intended posture and strategy that proceed from it, to an international audience. Just as the NSS is not the sole mode of communication to the Congress, it is likewise but one way of interfacing with the international community. Other high-profile pronouncements of US strategy and outlook such as the annual State of the Union address, as well as regular diplomatic relations, also function to announce and explain US behavior. While not the sole means of such communication, the NSS is important in facilitating international communication. Indeed, the NSS is thought of as an especially effective means of transmitting US intent to nations who have limited contact with the highest levels of the US government.²³⁷

As discussed, national security strategies have been formulated since the earliest days of the nation. Yet the regularity with which the Executive branch began "publicly articulating" its national security strategy/policies [increased] at the beginning of the Cold War just after World War II.²³⁸ One may disagree with the contention that over the years, certain bureaucratic changes have meant that national security strategies have

²³⁶ Don M. Snider, "The National Security Strategy: Documenting Strategic Vision (Second Edition)," (Strategic Studies Institute, 1995).

²³⁷ Ibid.

²³⁸ Korb and Council on Foreign Relations, *A New National Security Strategy in an Age of Terrorists, Tyrants, and Weapons of Mass Destruction: Three Options Presented as Presidential Speeches* 12.

become increasingly focused on the military facet of security.²³⁹ However, bureaucratic changes did take place. Indeed, they may have helped to perpetuate an emphasis on military strategy, if not expand it.

For example, it is useful to consider the changing bureaucratic organizing structure that lay behind various formulations of policy in the years after 1945. The landmark NSC-68 was formulated by Paul Nitze as head of the Policy Planning Staff at the Department of State. The Department of State also played a leading role in the formulation of national security policy during the Eisenhower and Kennedy administrations.²⁴⁰ During the Nixon administration however, the NSC assumed the lead role, under National Security Adviser Henry Kissinger. National security strategy reviews since then have been headed up by the NSC, sometimes in conjunction with the Department of Defense.²⁴¹

This development may well have helped the Department of Defense – itself naturally focused on *military* threats and strategy – in influencing the formulation of national strategy favorable to its own institutional goals. The prominence of the military in the overall federal bureaucracy, as well as better assurance of the continuity of its perennially vast budget with its large allocation of tax dollars, surely benefited.

However, care must be taken not to oversimplify the decisionmaking apparatus when considering the designation of a "lead agency" for drafting – if not fully and independently formulating – strategy.

²³⁹ For example, Huntington argues that NSC-68 showed a significant emphasis on non-military aspects of national strategy, and that such focus has diminished since then; however, it is not clear if the section of NSC-68 he uses to support this contention, which focuses on psychological concerns, is truly indicative of a diversified overall strategy of which military aspects were only a single part. See Huntington, "The Evolution of U.S. National Strategy." A large part of NSC-68 is devoted to purely military concerns (see NSC-68: United States Objectives and Programs for National Security (April 14, 1950): A Report to the President Pursuant to the President's Directive of January 31, [cited date as above]), and to a considerable degree this is true of all of the articulated national security strategies since World War II. Further, NSC-68 focused on military strategy and response much more than George Kennan had; see Gaddis, *Strategies of Containment* 99.)

²⁴⁰ Huntington, "The Evolution of U.S. National Strategy," 14.

²⁴¹ Ibid.

The Secretaries of State and Defense, along with the President and Vice President, are both principal members of the NSC. Given certain factors, the input of the State Department – naturally focused more on foreign policy and diplomatic strategy than military strategy – may be marginalized in an environment in which it is not the prevalent policy voice. For example, the disposition of a certain President or National Security Advisor might make those two individuals more receptive to the Defense Department's views than to the State Department's.

But given such a disposition on the part of the President, or the NSC Adviser (who, after all, is appointed and works extremely closely with the President), would policy formulation not favor the Department of Defense anyway? The answer is not immediately clear, and would likely depend on numerous factors. One consideration is that there is much to be said for the ability to frame the agenda and formulate questions in a certain way. This, in fact, is one of the acknowledged sources of power of the NSC.²⁴² Even if the President was more sympathetic to a rival agency, the ability to coordinate the exploration of security issues and draft policy responses affords a tremendous opportunity for swaying an administration's policy, or at least being included rather than excluded from the policy-making process.

Therefore, one may expect a significant amount of political and bureaucratic jockeying to occur during any Presidency, regardless of the perceived preexisting preferences and allegiances that are attached to an incoming administration. This maneuvering occurs between the senior leadership of the federal agencies. Individuals with access to the President but without a particular government department to support also participate in

²⁴² Christopher C. Shoemaker, *The NSC Staff: Counseling the Council* (Boulder: Westview Press, 1991).

such maneuvering. Some have conceived of senior cabinet officials like Secretaries of State and Defense as "barons" in the hierarchical federal government, whereas people tied more directly to the individual president, like the NSC Advisor and ad hoc policy aides, are more like "courtiers".²⁴³ While the former may have more bureaucratic resources to draw support from, they also have more "territory" to defend; the latter may have little institutional baggage influencing their advocacy of policy, but also lack the weight that accompanies established institutions.

While some would argue that the NSC Adviser, and perhaps the NSC staff too, are "courtiers", one should remain aware that the NSC structure may play different roles at different times. At times, the NSC Adviser can operate as an individual advocating a certain policy, or as the representative of the NSC as an organization (that is influential though of a relatively small size), or as an impartial arbiter of policies advocated by others. The exact role played by the NSC Adviser and staff has changed from administration to administration, and can conceivably change from issue to issue during a single presidency.²⁴⁴

3.3 The NSS as a Product of Negotiation and Compromise

While the NSS report is a tool for forging consensus, it is also a product of negotiation. It is interesting to consider where NSS documents actually fit into presidential pronouncements in general. As a single document, it can not perfectly fulfill its multiple uses with regard to multiple audiences. Part of the negotiation involved in its creation –

²⁴³ Destler, Gelb, and Lake, *Our Own Worst Enemy: The Unmaking of American Foreign Policy*.

²⁴⁴ *Ibid.* 171. The NSC was conceived of as a neutral entity under President Truman. In this case, admittedly occurring in the nascent period of the NSC's existence, the neutrality of the NSC went beyond deferring to the policy recommendations made by the State Department. A gap actually existed between the NSC structure and the White House staff, who of course viewed themselves as strong advocates of Truman administration policies.

for example within and between the many agencies with competing ideas and varying levels of influence in terms of identifying goals and threats – results in a document produced through political maneuvering and compromise.²⁴⁵ As such, it is subject to the possible inconsistencies that attend products of compromise. It is also subject to potentially becoming outdated due to fast-moving events and changing goals and priorities.

An NSS report is produced through discussion and compromise at least to some extent, although of course powerful agencies or a willful Chief Executive can significantly limit such discussion and compromise. Such a compromise document is more likely to embody concessions and modifications of a pragmatic nature than to represent a single unadulterated ideology, perception of threat, or unanimously-supported strategy or response. Added to this, one must consider that the document is also meant to serve multiple purposes. It is subject to modification not only in terms of the preferences of the agencies and individuals involved in its creation, but also in terms of the various uses which it is meant to have.

In light of this, it is fair to question how succinctly and accurately a NSS document expresses an administration's national security strategy. As a compromise political document, the NSS is not an altogether "pure" expression of strategy. However, while the NSS may be a product of concessions and negotiation – and perhaps even represent a somewhat watered-down and inconsistent expression of strategy – other articulations of an administration's national security strategy often possess the same drawbacks.

²⁴⁵ Such maneuvering may be because of budget implications or policy preferences. Former Clinton administration NSC staffer Joe Bouchard was responsible for drafting a number of NSS documents after soliciting input from a variety of federal agencies. Bouchard noted, "... there were cases where there were policy disputes, where there really wasn't a major budget issue. The resolution of it wasn't going to effect anyone's budget really, but the particular agencies had a stake in the outcome, because they had very different views on how the US should handle a particular issue. So the gaming was not just budget, it was due to policy disputes, trying to use the NSS to win a policy dispute." Bouchard.

When considering how accurately an NSS report reflects strategic orientation, of primary concern is how closely the NSS accords with other expressions of an administration's national security strategy. Other *products* of that strategy may also serve as useful indicators. If a strategy is producing various actions or policies at variance with one another, they may be inaccurate expressions of the strategy, or may reveal inconsistencies inherent in that strategy.

Any NSS document is bound to be one of compromise to a greater or lesser degree. One consideration that must be taken into account by a President is the likely reception an articulated strategy will receive from the legislative branch. Such consideration does not always involve overt bargaining, although it often does entail some degree of negotiation. Even so, the Executive may at times decide that great Congressional rancor is an acceptable price to pay for announcing a dearly-held policy.

Furthermore, in many instances it has been accepted by the Congress that the Executive branch possesses the primary responsibility for the formulation of national security policy. Indeed it has been noted that even when Congress has asserted a right to limit the Executive's authority in formulating – or even implementing – such policy, that its follow-through in exercising such a right has often been lacking.²⁴⁶ For example, the historical tendency of Congress has been to rhetorically support limitations on presidential power without following through. Congress has vocally supported the creation and observance of legislation limiting Executive power such as the War Powers Act. Yet the reluctance of the legislative branch to insist on the accountability of

²⁴⁶ One former senior Department of Defense official, Larry Korb, made this point with regard to how Congress typically receives NSS documents: "[NSS documents can be effective i]f congress would be willing to say 'this [Strategy] doesn't meet our requirement' – in other words if Congress is willing to basically stand up and say 'this is not what we expected', or 'we'll hold hearings on it to critique it'; but they don't." See Larry Korb, Interview, 06 Nov 2006.

presidents when the law is breached is apparent. A tension exists between the desire of the Congress to bridle Executive power on the one hand, and its wish to limit the risks it would assume when taking a more leading role in national security policy. This has resulted in what some have termed "fake activism" aimed at "avoiding responsibility".²⁴⁷

It should be acknowledged that NSS reports, as interagency documents, are intended to include an array of inputs and meant to be statements of common outlook and purpose made available to the public. As such, there is a real risk that they often may take the form of "least common denominator" documents.²⁴⁸ In the effort to arrive at a consensual understanding of threats and appropriate responses, the various agencies consulted may tend to avoid contentious issues to such a degree that the document may have little practical relevance for guiding an administration's future courses of action. Likewise, it may offer precious little information to both international and domestic audiences about how the US is likely to respond to particular crises. There is always the possibility that such a document may simply tout traditionally-held values that enjoy broad support (such as a general support for the spread of democracy), or focus more on detailing past successes than future objectives.

On the flip-side of these risks, however, are benefits. The search for consensus may enable actors coming from relatively narrow policy perspectives to develop a broader understanding of issues that transcend the purview of a single department. This in turn may foster increased cooperation and lead to new, shared understandings on matters of national security. And in situations where a President has a new and clearly-defined policy that he intends to enact, the inter-departmental process of incorporating that new

²⁴⁷ Destler, Gelb, and Lake, *Our Own Worst Enemy: The Unmaking of American Foreign Policy* 275.

²⁴⁸ Clark A. Murdock, *Improving the Practice of National Security Strategy: A New Approach for the Post-Cold War World*, Significant Issues Series; V. 26, No. 1 (Washington, DC: CSIS Press, 2004) 11.

policy across agencies in the form of an updated NSS can force the development of a consensus where little incentive existed before to come to one.²⁴⁹

Whether considering the drawbacks or benefits of the interagency process that produces them, there are limits to what NSS reports can express. If it were possible to formulate a "grand strategy" of national security, it seems unlikely that it would be produced through such a process. National strategy amounts to a "compendium" of individual security policies. In the opinion of one military professional, even if a grand strategy could actually be drafted that combined existing, lesser policies with projected future directions, it would have to be kept so secret as to limit its utility.²⁵⁰ It is easy to think that such a statement may exhibit an over-emphasis on concerns of secrecy; yet part of the statement rests on logic that is more difficult to dismiss: "Current policies are delicately balanced between opposing sets of pressures."²⁵¹

Logistically, it is usually the NSC structure that has served as the focal point for the compromise and ordering of priorities that accompanies the interagency production of draft NSS documents. It is important to keep in mind that the NSC can straddle the bureaucratic boundaries discussed above. As an organizational structure within the federal government, the NSC has interests and a bureaucratic domain as do other departments and agencies. Yet, it also functions in a very direct way on behalf of the White House. While all departments of the federal government technically fall within the Executive branch, the NSC is headed by the Assistant to the President for National Security Affairs. It is acknowledged that this individual meets with the President more regularly than any other government official, usually daily.

²⁴⁹ Snider, "The National Security Strategy: Documenting Strategic Vision (Second Edition)."

²⁵⁰ William E. Depuy, "For the Joint Specialist: Five Steep Hills to Climb," *Parameters* Summer (1995).

²⁵¹ *Ibid.*

The NSC has a unique mission to support and advise the President as an individual. Also, to a greater or lesser degree in its history, it has been meant to be an impartial adjudicator of other agencies and their competing interests. The NSC, then, may be simultaneously asked to assert the views of the President and act as referee among the other federal agencies and departments, while also acting to advance its own bureaucratic interests. And as mentioned, even administrative functions carried out by an unobtrusive NSC structure focused on the support of other agencies can run to the controversial. Notetaking and drafting summaries of meetings can themselves come close to being policy formulation.²⁵² The National Security Adviser prepares the agenda for NSC meetings, and this is a powerful function. The influence that flows from administrative functions has limits of course. Yet, to a significant extent the setting of agendas "determines which issues will actually reach the president and the formal NSC for deliberation and decision".²⁵³ Certain issues may be kept off the calendar entirely, or the content of meeting agendas may be withheld until the last moment.²⁵⁴

3.4 Variables Affecting Such Pronouncements

All of the compromise and consultation – between the Executive and Congress, between the departments within the Executive branch, and often managed by the NSC structure – takes place against the backdrop of the international circumstances of the day. These international circumstances greatly effect national security pronouncements.

The international environment, as an inherent part of the politics between states, always

²⁵² Shoemaker, *The NSC Staff* 23.

²⁵³ *Ibid.* 24.

²⁵⁴ This occurred during the Reagan administration in relation to what became known as the Iran-Contra affair. After the affair became public, Secretary of State George Shultz and Secretary of Defense Caspar Weinberger – both principal members of the NSC – claimed ignorance of the extent of the NSC staff's activities. Indeed, the commission appointed to investigate the affair found that "[e]ven when meetings among NSC principals did occur, often there was no prior notice of the agenda". President's Special Review Board, *Report of the President's Special Review Board* (Washington: US Government Printing Office, 1987) IV-5.

has an impact on their expressions of intent to one another. Drastic changes in that environment can create crises or the impression of crises, that themselves greatly effect the formulation of national security pronouncements.

The international circumstances and security issues which effect presidential pronouncements were explored in Chapter One. Both changes *to* and changes *within* the international order were considered, and both help to frame US thinking about its national security. Domestic purposes also play into the formation of national security goals. Similarly, the consideration of domestic concerns is a factor in the ad hoc doctrines that presidents formulate. The tensioned interplay that takes place in executive-legislative negotiation over the identification and funding of national security objectives and means is an example of the serious impact domestic concerns can have on the development of a national security policy. These issues were discussed in Chapter Two.

Presidential pronouncements and NSS reports are not developed independently from international circumstances, the political and ideological orientation of each administration, and considerations of the intended audience. There may exist purposes that the announcement *itself* might serve, as distinct from outcomes that particular *policies* are hoped to have. That is, the effect of a public pronouncement may be of more interest to a President than the effect of the policies enumerated in that pronouncement.²⁵⁵

²⁵⁵ The Vandenberg Resolution comes to mind here. This Resolution made by the US Senate helped pave the way for NATO by evidencing domestic support for a regional security organization that was in line with provisions of the UN Charter. The effect of this Resolution – facilitating the creation of NATO – was doubtless of more interest to the Truman administration than the ideas espoused in its content. The Vandenberg Resolution "...marked a striking evolution in American foreign and defence policies in time of peace, and it made it possible for the United States to enter an Atlantic Alliance." See Lord Ismay, "NATO: The First Five Years 1949-1954" 06 Mar 2001 [cited 05 Feb 2009]; available from <http://www.nato.int/archives/1st5years/chapters/1.htm>. The Resolution is reproduced in Appendix III of this work. See also Yergin, *Shattered Peace* 362.

Of crucial importance are the variables that find their origin in the individual person of the President. These variables include the personality of the President, his personal and professional experience, and his moral and political ideology. The trusted advisors which Presidents initially choose to surround themselves with can have a tremendous impact on the manner in which unexpected crises are managed. Presidential pronouncements may be heavily influenced by all these factors, which themselves figure prominently in the immense literature that surrounds presidential decisionmaking.²⁵⁶ The focus here is confined primarily to pronounced security policies, which are but one facet of a President's decisionmaking.

It may seem obvious to state it explicitly, but the single most important variable in the national security formulation of a US administration is the individual with the prerogative of making the final decision about its articulation: the President. While historical precedent might lead one to believe a course of action in response to a crisis is more likely than another, a number of presidents have not been reticent to break with traditional wisdom in times of national emergency (or in times perceived to be such).²⁵⁷

There are a number of purposes or audiences that presidential pronouncements may hope to address. Such a pronouncement may be simply the public unveiling of established policy; it may hope to assure the public that a policy has been implemented to deal with a particular issue. Or a pronouncement on national security may serve primarily as a message to the domestic public or international actors. Even if meant to

²⁵⁶ James P. Pfiffner, "Presidential Decision Making: Rationality, Advisory Systems, and Personality," *Presidential Studies Quarterly* 35, no. 2 (2005). Pfiffner provides a concise overview of the field in this journal issue dedicated to decisionmaking.

²⁵⁷ Gaddis, *Surprise, Security, and the American Experience*. Part of Gaddis' argument is that FDR and George W. Bush both broke with the tradition that immediately preceded their tenure, with FDR moving away from a long-standing US preference for freedom of unilateral action, and Bush moving away from a decades-long preference for multilateralism institutionalized by FDR.

serve as such a message, its purpose may or may not be primarily rhetorical. For example, although the Truman "doctrine" partly served as a communication to the American public of policy that had already been decided on, it also served to bring an end to much of the US isolationism apparent at the time.

Franck and Weisband have conceived of the rhetoric of presidents and other national leaders as falling into three broad levels of "intentionality". The first of these levels is an upper level in which the aim of rhetoric is to bring about "system-transformation". The Truman Doctrine would fall into this category, signaling as it did the US intention to remain active in Europe and opposing communism throughout the world. A lower, crisis management level exists in which rhetoric has been devised to address specific events. Such rhetoric may, if accompanied by other consistent signals over time, also result in desired system transformation or reinforcement. Conversely, statements crafted to address a distinct situation may be the basis for unintended longer-term consequences.²⁵⁸

At the lowest level, statements are not intended to affect the international system in any meaningful way, but rather are "informational" in nature. Statements of this ilk have the potential of being misconstrued by the audience as a higher form of rhetoric. This is especially true if they are delivered by national leaders. Examples of such statements would include apologetics attempting to put a past action or future action in positive light, but without intending systemic consequences.²⁵⁹

The risk of unintended consequences are increased by the fact that statements formulated as apologetics can not be admitted to be of low importance, or they would

²⁵⁸ Franck and Weisband, *Word Politics* 125.

²⁵⁹ *Ibid.* 125-126.

lose much of their rhetorical value. A very real danger exists of the exercise (or pronouncement) of an excuse for immediate, short term reasons which is later cited by an adversary as precedent for undesirable acts. When attempting to justify the behavior of their state, prudence would dictate that leaders "listen to themselves as if they were the enemy speaking."²⁶⁰ Likewise, when making pronouncements for the sake of convenience, it is wise to remember the possibility "that other states may treat what we say more seriously than we do ourselves."²⁶¹

Therefore, Presidents should act very purposefully and carefully when announcing new outlooks or philosophies that justify novel behavior. A new national policy which is hoped to moderately increase the security of the nation may in fact have far-reaching repercussions, with consequences that are difficult to foresee. Conduct explained by novel principles – principles never used previously when similar conditions applied – helps to engender system transformation just as highly intentional rhetoric does. Such conduct also has the real potential of costing prestige, since it amounts to inconsistency. All states have a stake in system stability that overarches their stake in whatever issue of the day is being explained.²⁶² Consistency in state behavior, and in the logic justifying that behavior, is a key to stability.

The NSS of George W. Bush, like other NSSs, should be seen as a product influenced by international circumstances, the internal disposition of the administration, and the intended audiences and purposes of the policy. In order to consider the exceptionality of its formulation and implications, it is necessary to now look closely at the various facets of the NSS issued in 2002.

²⁶⁰ Ibid. vii.

²⁶¹ Ibid. 126.

²⁶² Ibid. 6-7.

4.0 The 2002 NSS as Presented

The chapter will begin with a consideration of the character of the incoming Bush administration in 2001. Pertinent events that took place from September 2001 to September 2002 are then reviewed, as are related policy statements made during the same time period. Finally, the National Security Strategy (NSS) released by the administration in September 2002 is presented.

4.1 Features of the Bush Presidency in its First Nine Months

Contested Election

The election that took place in November 2000 was noteworthy in that it was the most contested election in the history of the nation. As votes were tallied in the extremely close election, it became clear that the candidate that won the state of Florida would win the decisive number of electoral votes and become the next President.

Complaints of irregularities in the vote counting surfaced, with constituent groups complaining their votes had been discounted: pensioners who had been confused by the ballot layout, African-Americans who were inappropriately listed as ineligible to vote, servicemen in the military whose ballots were excluded, and average voters whose ballots were discarded if the perforated punch-holes were not completely separated from their ballot. With these groups arguing that they had been disenfranchised, some election officials disagreeing with the Florida state government's handling of the situation, and the public nationwide split in opinion as to whether the decisions taken by the state government were legitimate, the candidates went to court. The case quickly

found itself propelled upward to the Florida State Supreme Court, and then to the US Supreme Court. In a telling vote that split along ideological lines, the US Supreme Court ruled 5-4 against the Florida State Supreme Court, and ordered the manual recount then taking place to be halted.²⁶³ The decision in effect decided the 43rd President of the US to be George W. Bush.

Bush's Agenda

Bush had run on an agenda with key domestic components. Foremost was his call for a massive tax cut that would exceed \$1 trillion. Energy policy formed another significant portion of his platform, with Bush advocating the opening of national parks for oil exploration (notably the Arctic National Wildlife Reserve). Bush's lack of professional international diplomatic experience may have contributed to his domestic agenda receiving more emphasis than his foreign policy agenda, although it must be remembered that presidential candidates ignore domestic issues at their own peril. Even so, he lacked a deftness in foreign policy matters that was illustrated by his unfamiliarity with some important details about the makeup of the current international community. Famously, on the campaign trail he was unable to name the leaders of Chechnya, Pakistan and India when queried by a reporter.²⁶⁴

Yet despite a relative lack of emphasis on foreign policy matters, and a degree of unfamiliarity with such matters, the candidate did have well developed foreign and

²⁶³ U.S. Supreme Court, Per Curiam Opinion in *Bush V. Gore*; Rehnquist, C. J., Concurring; Stevens, Souter, Ginsburg, and Breyer, Jj., Dissenting 2000 [cited 12 Oct 2006]); available from <http://www.supremecourtus.gov/florida.html>.

²⁶⁴ Glen Johnson, "Bush Fails Quiz on Foreign Affairs," *Washington Post*, 04 Nov 1999. See also Ivo H. Daalder and James M. Lindsay, *America Unbound: The Bush Revolution in Foreign Policy* (Washington, DC: Brookings Institution, 2003). The incident may have been over-emphasized. Bush certainly would not be the first US president to enter office with more interest in domestic issues than foreign policy and determined to keep that focus; in this respect, Bill Clinton might be viewed quite similarly. However, the gaff was indicative of the candidate's degree of familiarity with current international affairs.

defense policy proposals. In terms of defense, he was vocal about his opposition to the use of US troops in "nation building" missions, and supported a renewed commitment to national missile defense (NMD). The emphasis on NMD was based on a professed belief that the greatest threats to the US would come from "rogue" states such as North Korea who might develop nuclear weapons and missiles capable of delivering them to the continental US, rather than from non-traditional threats such as sub-state terrorist groups.²⁶⁵

While continuing to voice strong support for NMD, and to an increase of the overall defense budget to counter what Bush saw as an erosion of US military equipment and capability, the administration took immediate action on neither. The administration chose early on to stick with the 2002 budget requested by the outgoing Clinton administration, and make due with the defense appropriation already passed for 2001.²⁶⁶ Further, the decision was taken to maintain the number of US troops serving as peacekeepers in the Balkans at their preexisting level.

High-Profile Policy Decisions

Soon after the Bush administration assumed office, a significant amount of scrutiny and criticism were elicited from members of the international community when the US announced its intention to not participate in several international agreements. These high-profile policy decisions were interpreted as having a strong unilateralist bent. Criticism from the international community was if anything augmented by the style in which the US announced its decisions.

²⁶⁵ United States. President George W. Bush (2001-2009), A Distinctly American Internationalism: Speech Delivered at the Ronald Reagan Presidential Library, Simi Valley, California on 19 Nov 1999 [cited 12 Oct 2006]; available from <http://www.mtholyoke.edu/acad/intrel/bush/wspeech.htm>.

²⁶⁶ Daalder and Lindsay, *America Unbound: The Bush Revolution in Foreign Policy*.

Upon taking office the administration did not immediately withdraw from the Anti-Ballistic Missile Treaty (ABM) – an agreement which prohibited the US from developing and implementing a NMD system – but had signaled that it was a priority throughout the summer of 2001. The US withdrew formally from the treaty in December of that year.²⁶⁷

The Kyoto Protocol was another of the high-profile agreements that the US stepped back from after President Bush declared his opposition to it.²⁶⁸ It is notable that the US had been heavily involved in the negotiations of the treaty, and as is usually the case, had exerted a defining influence on the terms and structure of the agreement.²⁶⁹ The Bush administration's decision to abandon the Protocol was seen by some as an act of bad faith on the part of the US after having been so intimately involved in the negotiations. Had the US entirely refrained from participation in negotiating the agreement, the Protocol might have been drafted in a more robust fashion – although the prospects for its effective implementation probably would not have been increased.

The decision to refrain from becoming a party to the statute creating an International Criminal Court (ICC) was also high-profile. This decision, as well as subsequent US legislation and policy that limits assistance to the ICC, was likewise negatively critiqued by many other states.²⁷⁰ Yet in a way the act was less at odds with past US

²⁶⁷ United States. White House, Statement by the Press Secretary: Announcement of Withdrawal from the ABM Treaty on 13 Dec 2001 2001 [cited 12 Oct 2006]; available from <http://www.whitehouse.gov/news/releases/2001/12/20011213-2.html>. See also Paul Rogers, *Losing Control: Global Security in the Twenty-First Century*, 2nd ed. (London; Sterling, Va.: Pluto, 2002).

²⁶⁸ United States. President George W. Bush (2001-2009), Text of a Letter from the President to Senators Hagel, Helms, Craig, and Roberts on 13 Mar 2001 2001 [cited 13 Oct 2006]; available from <http://www.whitehouse.gov/news/releases/2001/03/20010314.html>.

²⁶⁹ See "Global Warming: Throwing Precaution to the Wind" in Philippe Sands, *Lawless World: America and the Making and Breaking of Global Rules* (London: Allen Lane, 2005) 69-94.

²⁷⁰ Jennifer Elsea, "U.S. Policy Regarding the International Criminal Court," (Congressional Research Service; The Library of Congress, 2002).

rhetoric and practice than the withdrawal from Kyoto had been. The previous Clinton administration had also voiced serious concerns over the creation of the ICC.²⁷¹

In terms of international agreements, the Bush administration's overriding concern was with extricating the US from agreements which had already been negotiated or were in the process of being created. This was an imperative that precluded the possible creation of new initiatives. Although certain of the administration's goals might have been furthered by multilateral means, Bush seemed primarily concerned with ending or limiting *existing* relationships with their attendant responsibilities, rather than initiating *new* ones.

4.2 Brief Overview of 11 September 2001 to September 2002

Nine months into the presidency of George W. Bush, the attacks of 11 September 2001 occurred. The attacks were a defining event in American history, and also of Bush's presidency. While the NSS was not released until a year later, the events and thinking that helped to form it found expression and development during this period.

The Attacks

On the morning of 11 September 2001, four domestic flights were hijacked in the United States. The hijackers piloted two of the planes into the twin World Trade Center

²⁷¹ John Dumbrell, *Evaluating the Foreign Policy of President Clinton - or, Bill Clinton: Between the Bushes* (London: British Library, 2005). It was only towards the end of his second term as President that Clinton signed the treaty, and the act may have been more indicative of his personal and professional commitment to multilateralism than of the resolution of all misgivings he held about the ICC. He was able to sign the agreement as a symbol of his commitment to certain diplomatic and democratic values even though indications were that the ICC statute would not be ratified by the Senate anytime in the near future.

towers in New York, and a third into a side of the Pentagon building in Arlington. The fourth flight crashed in the countryside of Pennsylvania while flying towards Washington, after passengers decided to resist the hijackers after learning of the attacks in New York.

It was ascertained over time that altogether around 3,000 individuals lost their lives in the attacks – an unparalleled event in US history. However, in the immediate aftermath of the attacks the number of casualties was feared to be much higher.²⁷² The morning after, Washington residents were confronted by the somewhat surreal image of military vehicles standing sentry over deserted intersections in the upscale and normally bustling Georgetown area. The functioning of the infrastructure of the US, notably its financial and transportation sectors, was affected in unprecedented ways. Trading on Wall Street, which had been suspended on Tuesday morning, was subsequently suspended through Friday. All civilian air traffic remained grounded for three days.²⁷³

A partial accounting of the direct financial impact of the 11 September attacks has been figured at over \$285 billion. This figure includes the physical damage and lost wages of those killed in the attacks, as well as the initial effect on the US GDP. It does not include the ongoing effects of other jobs lost across the US and world economy, which are more indirect consequences. Effects on the municipality of New York, tourism generally, the ensuing federal bail-out of US airlines, and public uncertainty which was reflected in significantly reduced consumer spending all continued to fuel economic concerns long past the date of the actual attacks.²⁷⁴

²⁷² Eric Lipton, "A Nation Challenged: The Tally; Officials Say Number of Those Still Missing May Be Overstated," New York Times, 22 Sep 2001.

²⁷³ Robert D. McFadden, "After the Attacks: The Overview; a Shaken Nation Struggles to Regain Its Equilibrium, but Remains on Edge," New York Times, 14 Sep 2001.

²⁷⁴ Burton M. Leiser, "The Catastrophe of September 11 and Its Aftermath.," in *Terrorism: The Philosophical Issues.*, ed. Igor Primoratz (London: Palgrave Macmillan, 2004). Leiser compiled this data

Rally of the US Public To Bush, and of the International Community to the US

Predictably, the American public and Congress rallied behind the President, as normally happens in time of crisis. During President Bush's speech to the joint session of Congress on 20 September 2001, he received standing ovations from both parties at numerous times. Virtually no prominent politician, nor a significant number of the public, opposed the administration's initial response, which included a tough stance against the Taliban regime.²⁷⁵ This support continued when US forces were deployed in Afghanistan, the Congress having previously passed a very broadly-worded Resolution authorizing the President to use force against the "nations, organizations, or persons *he determines* planned, authorized, committed, or aided" the 11 September 2001 attacks.²⁷⁶

Initially, the international community also rallied behind the US. Support and sympathy for the US was strong. The televised images of the attacks were seen live around the world. The attacks evoked an almost universal reaction of sympathy from governments

from the Wall Street Journal, the Federal Reserve Bank of New York, Congressional legislation, and a study carried out by the Milken Institute. He points out that \$285 billion is in excess of the GNP of many nations in the world.

²⁷⁵ United States. President George W. Bush (2001-2009), Address to a Joint Session of Congress and the American People on 20 September 2001 [cited 02 Feb 2006]); available from <http://whitehouse.fed.us/news/releases/2001/09/print/20010920-8.html>. Although Osama bin Laden was mentioned by name in this speech, the ultimatum to the Taliban was to hand over leaders of al Qaeda. However, administration officials emphasized the need to bring the individual Osama bin Laden to justice; to locate and apprehend him, "dead or alive" in the words of the President. This may help to account for the general public's strong support of military action in Afghanistan. If the government was sure this individual planned/ordered the acts that resulted in mass civilian casualties on US soil, was certain he was somewhere in Afghanistan, and the de facto government of Afghanistan refused to locate and extradite him, then certainly the US should act to do so. This kind of straightforward logic, which was in line with traditional notions of law and order in the US, both in terms of national self-defense and criminal justice, appealed to a distraught public eager to 'do something'.

²⁷⁶ Emphasis added. See Authorization for Use of Military Force, 1st Session, S. J. RES. 23. The Resolution was passed unanimously in the Senate and with only one "Nay" vote in the House.

around the world.²⁷⁷ A great deal of sympathy from the international public was in evidence as well.²⁷⁸

In the aftermath of the attacks, it quickly became clear that the makeup of the various companies and individual employees of the World Trade Center was decidedly international in character. Due to companies which operated internationally, and non-US citizens employed at various levels high and low, it was quickly acknowledged by the US government that the tragedy had affected friends and families in many countries around the world, and not just the US.²⁷⁹

Preliminary International Initiatives in Response to the Attacks

Preliminary international initiatives aimed at responding to the attacks in the US targeted terrorism generally. The day after the attack the UNSC passed a Resolution condemning the attacks in the US, and recognizing the right of individual or collective self-defense under the UN Charter. UNSCR 1368 of 12 September 2001 declared that the attacks were acts of international terrorism, and a threat to international peace and security. The Resolution also called on all states to increase cooperation in implementing international conventions and previous Resolutions regarding acts of terrorism.²⁸⁰

²⁷⁷ United States. President George W. Bush (2001-2009), Statement by the President in His Address to the Nation on 11 Sep 2001 [cited 02 Feb 2006]); available from <http://whitehouse.fed.us/news/releases/2001/09/print/20010911-16.html>. Bush mentions the speed with which other world leaders had called to offer diplomatic support and condolences.

²⁷⁸ Jean-Marie Colombani, "We Are All Americans," *Le Monde*, 12 Sep 2001.

²⁷⁹ United States. President George W. Bush (2001-2009), Address to a Joint Session of Congress and the American People on 20 September [cited date as above].

²⁸⁰ UNSC, Resolution 1368 Adopted on 12 Sep 2001 [cited 13 Oct 2006]); available from <http://www.un.org/Docs/scres/2001/sc2001.htm>.

International efforts soon went on to implement controls on the financial support of terrorist organizations. The Security Council subsequently passed UNSCR 1373 on 28 September 2001. This Resolution reaffirmed the inherent right of self-defense, emphasizing again an important recognition in legal terms that formally accepted the right of the US to act militarily in defending itself. UNSCR 1373 also acted under Chapter VII authority, and mandated that states cooperate in curtailing the funding of terrorist organizations, and deny refuge to those involved with planning and funding terrorist acts. The UNSC also established a Security Council committee to monitor implementation of the Resolution.²⁸¹

Moving quickly, NATO invoked Article V of its Charter. This recognized that an armed attack had occurred against one of its members, and declared the alliance's intention of fulfilling its obligation to render aid and military support to the US. This was the first time that the mutual assistance clause had been invoked by NATO.²⁸²

Invasion Of Afghanistan

The days immediately after the attacks were spent by the administration in deep discussions and briefings, including a retreat at Camp David. During the President's 20 September 2001 address to a joint session of Congress, he confirmed that the US government believed that the attack had been planned and carried out by al Qaeda.²⁸³ Osama bin Laden, already wanted in the US for his involvement in the bombings of the US embassies in Tanzania and Kenya, was again identified as the leader of al Qaeda –

²⁸¹ UNSC, Resolution 1373 Adopted on 28 Sep 2001 [cited 13 Oct 2006]); available from <http://www.un.org/Docs/scres/2001/sc2001.htm>

²⁸² Lord Robertson, The Future of the Transatlantic Link 2001 [cited 13 Oct 2006]); available from <http://www.nato.int/docu/speech/2001/s011024a.htm>.

²⁸³ United States. President George W. Bush (2001-2009), Address to a Joint Session of Congress and the American People on 20 September [cited date as above].

an entity more identified with its linking of shared beliefs and goals of smaller groups across the globe than by any organizational structure.²⁸⁴ As the group's leader, bin Laden was singled out by the US as the individual with primary responsibility for the attacks. Bin Laden was known to be in Afghanistan with the acquiescence of the Taliban regime. In his address to Congress, the President demanded that the Taliban hand over all al Qaeda leaders to the US. An ultimatum was given: immediately comply by surrendering such leaders and their supporters, or "share in their fate".²⁸⁵

The Taliban regime did not turn over bin Laden, although it was probably a mixture of reluctance and inability that produced this outcome. Although Special Forces troops used for reconnaissance had been operating in Afghanistan for some time before, the US initiated military action against the regime on 07 October 2001.²⁸⁶ In what might be considered an example of the type of combat favored by the administration's Pentagon officials, the US opted to use a combination of air power with small and mobile special forces units on the ground. In addition, Afghan military elements collectively known as the Northern Alliance who were opposed to the Taliban were given arms, intelligence and other logistical support. The opposition began advancing southward from the small enclave it controlled in the north of the country. Within weeks of the US initiating military action, the Taliban quit the capital city of Kabul overnight, leaving it for the opposition forces to occupy without resistance.²⁸⁷

²⁸⁴ Richard A. Clarke, *Against All Enemies: Inside America's War on Terror* (London: Free Press, 2004).

²⁸⁵ United States. President George W. Bush (2001-2009), Address to a Joint Session of Congress and the American People on 20 September [cited date as above].

²⁸⁶ United States. President George W. Bush (2001-2009), Presidential Address to the Nation on 07 Oct 2001 2001 [cited 13 Oct 2006]; available from <http://www.whitehouse.gov/news/releases/2001/10/20011007-8.html>.

²⁸⁷ One consequence of this strategy was to leave the new government of Afghanistan, led by Hamid Karzai, struggling to exercise any kind of central control over the entire country. Factions of the Northern Alliance jockeyed for power and controlled parts of the country, contributing to a tenuous security situation. This, along with a continuing Taliban presence, put the central government at a disadvantage. See Kenneth Katzman, "Afghanistan: Current Issues and U.S. Policy," (Congressional Research Service; The Library of Congress, 2003).

Such caution as was expressed in the US took the form of worries that the US might find itself bogged down for years in the vast expanses of Afghanistan, as the Soviet Union had two decades before. As it was, the US seems to have avoided such a situation through its limited goals – it never sought to occupy the country – and crucially through its reliance on the Afghan opposition to execute much of the ground fighting.

At the time of this writing, evidence of the US military being "bogged down" is more apparent in Iraq than Afghanistan, but Afghanistan remains unstable, and a new NATO command is working to counter a resurgent Taliban. Yet attainment of the objective that had originally prompted the US intervention in Afghanistan remained elusive.

After the fall of the Taliban, it was thought that bin Laden and those in the country loyal to him were hiding in caves in the eastern Tora Bora region of the country. The US military carried out an extensive bombing campaign directed at the cave systems in this mountainous region. The difficulty of bombing such protected positions was explained to the public, as was the dangerous and time-consuming task of sending ground troops – whether US special forces or Afghan forces – to search cave entrances and tunnels for combatants and intelligence. This helped to explain the slow progress made in eastern Afghanistan, and for the failure to find bin Laden. Thus, the initial success of military action against the Taliban regime was tempered by the fact that as the weeks and then months wore on, there was no capture – or even sighting – of bin Laden.²⁸⁸

²⁸⁸ Kenneth Katzman, "Afghanistan: Current Issues and U.S. Policy," (Congressional Research Service; The Library of Congress, 2002).

4.3 Statements and Speeches Preceding Doctrine

The major ideas embodied in the administration's NSS were introduced in a number of speeches and statements made by President Bush prior to the release of the NSS in September 2002. Some of these ideas were reaffirmations of familiar US positions. These include continuing US support for human rights, economic development, and the need for strengthening multilateral relationships. Other less familiar themes were also introduced, and flowed from the contention that it was imperative for the US to adopt a new security paradigm to meet the challenge of a changed security environment. The ideas, both those familiar and novel, were all publicly pronounced by Bush before being enshrined in the NSS.

For example, the President's 17 July 2001 speech to the World Bank asserted the need to support worldwide economic development, as both a moral imperative and to improve international security, with the continuing spread of free trade and open markets seen as the best means to accomplish such growth. Support for efforts to eradicate HIV/AIDS and other infectious diseases, and to eliminate high levels of debt carried by developing countries, is also cited in the World Bank speech.²⁸⁹ The intention to champion the spread of human rights and economic development around the world was also included in the 2002 State of the Union address.²⁹⁰ Poverty reduction, the promotion of human rights, and the spread of free markets and private investment were all reiterated as prime US goals in speeches made by Bush to the Inter-American

²⁸⁹ United States. President George W. Bush (2001-2009), Remarks by the President to the World Bank on 17 Jul 2001 [cited 02 Feb 2006]; available from <http://whitehouse.fed.us/news/releases/2001/07/print/20010717-1.html>.

²⁹⁰ United States. President George W. Bush (2001-2009), The President's State of the Union Address on 29 Jan 2002 [cited 02 Feb 2006]; available from <http://whitehouse.fed.us/news/releases/2002/01/print/20020129-11.html>.

Development Bank, and at the UN Financing for Development Conference in Monterrey, Mexico.²⁹¹

The President also asserted a belief in the importance of multilateralism at various times. Bush spoke to his audience at the World Bank about the US support of multilateral relationships, and endorsed NATO and EU expansion as an expression of this.²⁹² Bush's speech to a joint session of Congress just after the September 11 attacks contained some elements reflective of multilateralism; for example, he stated that the US required the support of other nations' police and intelligence services.²⁹³ NATO's invocation of mutual defense was also referred to positively by the President in the same address. The need for cooperation with other nations in order to prevent WMD being used by terrorists or state sponsors of terrorism was included in Bush's 2002 State of the Union address.²⁹⁴ Similarly, the continuing usefulness of multilateralism in general, and the NATO alliance in particular, was asserted during the President's 23 May 2002 speech to the German Bundestag.²⁹⁵

The need for new strategies to deal with new security threats was also stated by the President at various times. The notion of pursuing "a balance of world power that favors human freedom" was introduced prior to the attacks of 11 September. Bush stated that

²⁹¹ See United States. President George W. Bush (2001-2009), Remarks by the President on Global Development on 14 Mar 2002 2002 [cited 08 Feb 2006]; available from <http://www.whitehouse.gov/news/releases/2002/03/print/20020314-7.html>. and United States. President George W. Bush (2001-2009), Remarks by the President at United Nations Financing for Development Conference on 22 Mar 2002 2002 [cited 08 Feb 2006]; available from <http://www.whitehouse.gov/news/releases/2002/03/print/20020322-1.html>, respectively.

²⁹² United States. President George W. Bush (2001-2009), Remarks by the President to the World Bank on 17 Jul [cited date as above].

²⁹³ United States. President George W. Bush (2001-2009), Address to a Joint Session of Congress and the American People on 20 September [cited date as above].

²⁹⁴ United States. President George W. Bush (2001-2009), The President's State of the Union Address on 29 Jan 2002 [cited date as above].

²⁹⁵ United States. President George W. Bush (2001-2009), President Bush Thanks Germany for Support against Terror: Remarks by the President to a Special Session of the German Bundestag on 23 May 2002 2002 [cited 02 Feb 2006]; available from <http://whitehouse.fed.us/news/releases/2002/05/print/20020523-2.html>.

this pursuit should begin with a new conception of security that emphasized threats such as terrorism, cyber-warfare, WMD and ballistic missiles. What are termed "Cold War doctrines" – presumably strategic ideas such as deterrence and containment – are asserted to have reduced relevance to the current international environment.²⁹⁶ After 11 September, the potential danger posed by WMD, if acquired by terrorist organizations or delivered by the missiles of hostile states, was later reiterated in the speech made in Germany.²⁹⁷ While speaking of threats posed by WMD and dangerous regimes, the President also stated – while not using the term "preemption" – that he would "not wait on events, while dangers gather".²⁹⁸

The need to utilize preventive military action under some circumstances was stated most clearly in two speeches made to military audiences in the late spring and summer of 2002. In his speech to the graduating class of the US Military Academy in West Point, NY, Bush reiterated the potential dangers posed when the "radicalism" of terrorist organizations and the "technology" of WMD come together. While not discounting their usefulness entirely, the President went on to argue that the past US strategies of containment and deterrence were of limited value when applied to this new potential threat. Rather, this particular threat is so great, its potential consequences so destructive, that the US must be prepared to take preemptive military action before the "threats ... fully materialize".²⁹⁹ The need for preventive military action in some

²⁹⁶ United States. President George W. Bush (2001-2009), Remarks by the President to the World Bank on 17 Jul [cited date as above].

²⁹⁷ United States. President George W. Bush (2001-2009), President Bush Thanks Germany for Support against Terror: Remarks by the President to a Special Session of the German Bundestag on 23 May 2002 [cited date as above].

²⁹⁸ United States. President George W. Bush (2001-2009), The President's State of the Union Address on 29 Jan 2002 [cited date as above].

²⁹⁹ United States. President George W. Bush (2001-2009), President Bush Delivers Graduation Speech at West Point United States Military Academy on 01 Jun 2002 2002 [cited 02 Feb 2006]; available from <http://whitehouse.fed.us/news/releases/2002/06/print/20020601-3.html>.

circumstances was stated again when the President addressed US troops at Fort Drum, NY.³⁰⁰

4.4 Brief Presentation of the 2002 NSS

The first NSS to be issued by the Bush administration was that of 17 September 2002. The majority of the Strategy exhibits consistency with previous American thinking, values, and strategy.³⁰¹ The structure of the document will now be reviewed, followed by the identification of some common threads that run through the Strategy. Finally, the most contentious aspects of the NSS will be described.

The Structure of the 2002 NSS

There is an introduction (I), and eight sections (II-IX) detailing different facets of the Strategy. In the Overview (Section I), the 2002 NSS states that the aim of the US is not only to make the world safer, but also to make it better. With this in mind, the goals that the US has identified are set out: "... political and economic freedom, peaceful relations with other states, and respect for human dignity." The document identifies eight ways in

³⁰⁰ United States. President George W. Bush (2001-2009), President Salutes Troops of the 10th Mountain Division: Remarks by the President to Troops and Families of the 10th Mountain Division on 19 Jul 2002 2002 [cited 02 Feb 2006]; available from <http://whitehouse.fed.us/news/releases/2002/07/print/20020719.html>. The speech also mentioned an administration stance seen as indicative of a unilateralist impulse: the determination to never to allow the ICC jurisdiction over American troops.

³⁰¹ It is notable that most sections enunciate goals that the US has held for some time. The fact that the US – and many other nations – regard these goals as reputable would initially seem to argue against the novelty of the NSS. On the other hand, even if broad goals exhibit some ethical resonance and historical basis, they may also be used to obfuscate more radical and contentious aspects of US policy.

which the US believes these goals can be achieved. These eight means form the remainder of the document (Section II to Section IX).³⁰²

Section II encompasses the first way in which the US will seek to achieve its broad goals: it aims to "champion aspirations for human dignity". The next means is laid out in Section III, "strengthen alliances to defeat global terrorism and work to prevent attacks against us and our friends". Section IV addresses how the US will "work with others to defuse regional conflicts". Section V explains how the US intends to "prevent our enemies from threatening us, our allies, and our friends, with weapons of mass destruction".

The next means by which the US seeks to achieve its goals is to "ignite a new era of global economic growth through free markets and free trade", and is set out in Section VI. The intention of the US to "expand the circle of development by opening societies and building the infrastructure of democracy" is addressed in Section VII. The aim to "develop agendas for cooperative action with other main centers of global power" is discussed in Section VIII. Finally, Section IX turns to the final intention stated in the Strategy: to "transform America's national security institutions to meet the challenges and opportunities of the twenty-first century".³⁰³

These sections may be usefully divided into three groupings: those emphasizing support for human rights and economic development; those which stress the importance of multilateral action and relationships; and those arguing that a changed security environment has necessitated a policy of military preemption and changes to the structure of intelligence and military force structures.

³⁰² United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America."

³⁰³ Ibid.

Sections II, VI, and VII are primarily concerned with human rights and development. Section II sets out the US support for human rights and individual freedoms. These are viewed as expressions of universal values held by the US, that are applicable across the world. Moreover, these universal values form the stated basis of the Strategy; the NSS will be formulated to further these values, rather than simply providing the stability necessary to secure them in the US. The focus in Section VI is on free markets: both on why they are seen as essential to the security and quality of the world, and on how the US will seek to support and expand these economic values. Section VII lays out the case for reducing the spread and negative impacts of infectious disease – HIV/AIDS in particular – as being an integral part of the overarching need for more effective development efforts around the world.³⁰⁴

Sections IV and VIII turn to multilateral issues. Section IV asserts the need for work towards the resolution of regional conflicts around the world, and emphasizes the need for US support of "international relationships and institutions that can help manage local crises". Section VIII also focuses on multilateralism. The US asserts that it continues its long-standing commitment to multilateralism, and seeks to improve and expand cooperation with other nations. This cooperation includes the US existing participation in alliances such as NATO, and also its security agreements with other states or actors such as South Korea and Taiwan. The US relations with regional groups with which it is not a member, such as ASEAN, are also included. A significant portion of the Section is devoted to the importance of great power cooperation, with particular emphasis placed on the relationship between the US and Russia, India, and China.³⁰⁵

³⁰⁴ Ibid., 21-23. In terms of HIV/AIDS, the positive view taken of development aid and efforts to eradicate and control the global spread of the disease might have taken some by surprise, given the conservative voter base loyal to Bush.

³⁰⁵ Ibid., 25-28.

Sections III, V, and IX deal with the need for new strategies to meet the challenge of a new security environment. Terrorism, and the administration's "war on terror" that followed the attacks in September 2001, had largely consumed the Bush administration for the year preceding the publication of the NSS. It is therefore not surprising that terrorism figures prominently in the Strategy. In Section III, emphasis is placed on the need to combat international terrorism itself, which is defined by the NSS as "premeditated, politically motivated violence perpetrated against innocents". What must be targeted by the US and the rest of the international community is broader than a particular state, individual, or ideology.³⁰⁶ Section III briefly announces two aims that prefigure later sections. These strategies foreshadow concepts that are expanded upon later in the document.³⁰⁷

There exists overlap between the Sections, with various issues being discussed in more than a single context. However, it is telling that the section dealing especially with terrorism is distinctly interrelated with two other sections that lay out proposed military aims most prominently. The first is the statement that the US is prepared to act unilaterally and preemptively against perceived terrorist threats, a feature with significant military implications that is laid out in Section V. The second is the reorganization of national security institutions, which is seen as encompassing the creation of a new cabinet-level Department of Homeland Security, a restructured FBI, and – another proposition with notable military implications – the formation of a unified

³⁰⁶ This is in accordance with administration policy which began to focus on terrorism generally immediately following the 11 September attacks, but is also reflective of a shift in official rhetoric away from Osama bin Laden, apparent even in September 2002. This rhetorical shift is seen by many as primarily caused by the inability of the US to capture, or even locate, the nominal head of al Qaeda after nearly a year of military action in Afghanistan.

³⁰⁷ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 5-7.

command structure in the US military. These organizational matters are the focus of Section IX.³⁰⁸

Common Threads That Run Through the NSS

The NSS issued by the Bush administration in 2002 laid out a number of issues seen as affecting security, and the intended US means of dealing with each of them. These issues were for the most part reflective of modern liberal democratic values, which large segments of the population of most Western nations would support. Values such as basic human rights, economic and political rights, freedom of speech, freedom of religion, democracy, opportunities for education, equality for women, and capitalism (expressed in terms of free markets and the right to individual property rights) feature prominently in the document.

The NSS, by virtue of the values it stresses as the basis for its strategy, is a highly moralistic document. This is unsurprising, as values are often invoked in politics in order to provide a moral basis for whatever course of action a government is taking or wishing to take. Values were certainly also invoked in the formal NSSs produced by US administrations since the mid-1980s. In his administration's NSS, Ronald Reagan insisted that "National Security Strategy must start with the values that we as a nation prize", and set "the growth of human freedom" as a key goal. George H.W. Bush's NSS spoke of a "common moral vision" that united the US and its strategic allies, and of the commitment of the US to make "liberal trade" the basis of the world economy. The

³⁰⁸ Ibid., 29-31.

Clinton administration's NSS of 1998 spoke of "the universal values of democracy and freedom".³⁰⁹

A simple logic is set out in the 2002 document. Long-held values and rights, rather than functioning as simply window dressing for controversial policies, are explicitly linked by the Strategy to the proposed policies and strategic goals in the document. The transmittal letter is also straightforward. The US is supportive of the same democratic values and rights that it has always endorsed, and that served as a basis for American society when the nation was established. The 20th century, with its two World Wars and the Cold War, is presented as a period in which these values were challenged. The victory of the US and its allies in the world wars of the early and middle of the century, and the demise of the Soviet Union near its conclusion, are viewed as proof that non-democratic systems of governance with values contrary to the US are at least inferior to liberal democratic values, and are even not viable as forms of political organization.³¹⁰

The document even goes so far as saying that the values that are cherished by the US – held by its citizenry and so reflected in the policies and relations of its government – are more than a unique expression of democratic liberalism. Rather, the values held by the US are universal. They are applicable to all people, regardless of culture; they have been applicable in all times or historical moments.³¹¹

³⁰⁹ See United States. President Ronald Reagan (1981-1989), "National Security Strategy of the United States," (Washington, DC: The White House, 1988), 3. United States. President George H.W. Bush (1989-1993), "National Security Strategy of the United States," (Washington, DC: The White House, 1990), 1. United States. President William Jefferson Clinton (1993-2001), "A National Security Strategy for a New Century," (The White House, 1998), iii.

³¹⁰ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America." See the transmittal letter that precedes the table of contents.

³¹¹ Ibid. For a brief discussion of how the US views its values in absolutist terms, see also Rogers, *Losing Control: Global Security in the Twenty-First Century*.

These values are reflective of the will and aspirations of the American people. They have served the US well, in that they have endured as expressions of the will of the American public, and engendered the loyalty of the citizenry of the US to the government. In addition, these rights, freedoms, and values have also been held by other powerful states, who although may have expressed them somewhat differently, are nonetheless liberal democracies who outlasted the challenges of the 20th century. These values are equated with the finest, yet most basic, of human aspirations throughout time. The freedoms and rights laid out in the Strategy are held to be the proper expression of aspirations held by all peoples, everywhere.

Yet, these values also have a function; they possess a concurrent, beneficial side-effect. Although they are moral expressions – they are the right goals and objectives of humanity – they also are structural. The administration sees these values as serving as the very foundation of international order. Democracy and economic liberalism, in particular, are mentioned as providing a stable order internationally, and a stable domestic order for the polities within states. When these values are threatened by the actions or orientation of governments around the world, the stability of the international order is also threatened. Long-held American values must be defended globally, not just as universal *moral* certitudes, but as necessary prerequisites for a lasting and stable international order.

Thus the discussion of freedom also links values and rights to the international order itself. When such values are supported, and allowed expression, international order itself is strengthened. When they are challenged, or denied whole populations by authoritarian regimes, the challenge is not only immoral, but destabilizing in practical terms – and international order is made less secure.

While making this point, the Strategy explicitly states that national security strategy of the US is now about more than just *security*. It is also about supporting universal American values as a moral necessity. The US must actively support the spread of these values. The NSS argues that the US can not be true to its beliefs and values by simply securing them within its borders; it must champion them when and where it can. Given the preeminence of the US at present, it must champion them continuously and globally.³¹²

Less Contentious Aspects of the NSS

While few would argue against the desirability of peace and stability in international affairs, many might disagree with the goals the US views as supportive of that peace and stability. Likewise, the manner in which the US pursues these goals rarely has unanimous international support. However before turning to the more contentious elements of the Strategy that are set out as supportive of peace and stability, some of the less contentious will first be considered: those concerned with the promotion of human rights and economic development, and those supportive of multilateral relationships and goals.

At times the 2002 NSS is almost liberal in tone, which some may find surprising, given the orientation of the administration. However, even the most conservative "Realist" strands of American politics retain a significant degree of liberal ideology, particularly in their approach to foreign policy. Disagreements about foreign policy in the US is often about the short-term direction of that policy, and how to bound the debate, than

³¹² United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 3-4.

they are concerned with replacing the liberal democratic (and moral) assumptions that underpin it.³¹³

One example is the stated need to enhance the development assistance given to the poorest nations. A moral argument for working to eliminate poverty is made. People in poverty are deprived of some of the basic freedoms mentioned at the beginning of the President's transmittal letter. These include the right to work and profit from that work, the opportunity to provide for the education of offspring (an ability usually severely curtailed in instances of widespread poverty), and the right to own property.³¹⁴

The document sets out poverty as both a values-laden issue, and as a pressing and very practical security issue. While arguing that poverty is not the cause of militant terrorism, it asserts that poverty creates an environment that is conducive to militant philosophies. Therefore, to shrink from taking steps to reduce poverty would be a failure to address one of the most important conditions that foster the popularity of terrorist organizations.

Poverty is not only viewed as a security issue at the individual level. In addition to creating an environment that easily fosters militant ideologies that appeal to those individuals affected most in their day-to-day lives by it, poverty also has consequences at the state level. States who suffer from endemic poverty are inherently less stable than more prosperous countries. They are less able to counter the attraction that terrorist organizations or causes hold for their own citizens – both in terms of providing viable economic options for their disaffected, and more negatively, in terms of possessing the wherewithal to control their populations through strong central control and

³¹³ Dumbrell and Barrett, *The Making of US Foreign Policy* 6-7.

³¹⁴ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America." See the transmittal letter.

enforcement. Further, due to severe budgetary constraints, such states are often unable to effectively patrol their own borders and remoter regions effectively. The Strategy also explicitly mentions the drug trade, which thrives in weak states which lack the ability for effective law enforcement. The drug trade is seen as regionally destabilizing, and as providing a source of critical funding to terrorist organizations.

The US proposed solution to global poverty is multi-faceted. It is asserted that the continuing spread of free trade is an inherently positive development that is the proven way to increase individual well-being and the prosperity of states. Therefore, the US will remain committed to free markets and supportive of efforts to bolster their vitality and growth. The US sees it as the responsibility of governments to recognize the positive influence of free trade, and to seek their nations' inclusion in a global free trading system. Governments who make this decision will receive the support of the US.³¹⁵

The US also proposes a more direct means of providing financial support to poverty-stricken nations. The Strategy expresses an intention to increase the funding provided by the US for development through a "New Millennium Challenge Account". The dispersal of funds to poorer nations will be on the basis that their governments have met certain conditions. These include just governance, accountability, and commitment to free markets. The US sees its commitment to help stop the spread of AIDS – its financial support of AIDS initiatives – as part of its broad development goals.³¹⁶

Likewise, multilateralism is presented as having both a values-based logic underpinning it, as well as positive outcomes for US security. Supporting like-minded states is a

³¹⁵ Ibid., 17-20.

³¹⁶ Ibid., 21-23.

moral good that has a long historical precedent. Further, when considering the various conflicts and security challenges in regions around the world, the NSS recognizes that the US alone can not resolve them. Rather, it is recognized that the cooperation of other states is necessary to address such challenges. The US coalition relationships and participation in regional institutions "advances security, prosperity, opportunity, and hope."³¹⁷

It is also acknowledged that fostering multilateral relationships has other practical implications. Cooperation in addressing security issues is seen as a way of bringing additional resources to bear – resources and expertise that are needed to augment the US "finite political, economic, and military resources". Such cooperation will help to secure stability while sharing costs and risks.³¹⁸ Cooperation in security matters may lead to cooperation in other matters, such as diplomatic and economic ones. In other cases, it is hoped that economic cooperation will lead to a closer alignment of values and common security interests.³¹⁹

A Highly Contentious Aspect of the NSS: Preventive Self-Defense

By far the most controversial aspect of the 2002 NSS is its emphasis on the US intention of using preemptive or preventive military force when necessary. There exist different facets of the preemption aspect of the Strategy, all contentious. The intention of acting preemptively when necessary is one. Another is the US assertion that preemption/prevention is legitimate, and even compliant with international law. The US intention of independently determining when preemptive military force is necessary,

³¹⁷ Ibid., 10.

³¹⁸ Ibid., 9. The Strategy argues in favor of NATO enlargement to nations "able to share the burden" of defense.

³¹⁹ The NSS talks of China in this context; see Ibid., 27-28.

rather than through a multilateral mechanism such as the UNSC, is yet another facet of this part of the Strategy. Finally, and relatedly, the US asserts that once it has determined unilaterally that preventive military action is called for, it is prepared to take unilateral military action. Each of these aspects, all of which are interrelated, are nonetheless distinctly controversial.

The NSS argues that while the traditional method for ascertaining an imminent threat was originally understood as very material – the physical movement of military forces – that the international environment has changed to such a degree that preemptive action is necessary before a threat is blatantly or indisputably imminent. The document also recognizes an age of advanced technology – of ballistic missiles, chemical, biological, and nuclear devices, and the ease of global travel – has resulted in new vulnerabilities. Threats are seen as posing severe risks before any belligerent action is taken, while they are still in the formative or planning stages.³²⁰

In this view, the US must take forceful action before such threats are fully formed. It is this necessity that makes taking action justifiable before an imminent threat exists. Indeed, the document even explicitly argues for a definitional change, arguing that "imminent" is no longer useful in the traditional understanding of the word. The Strategy notes that in times past, the movement and massing of troops were the indicator of imminent threat. In an age where an individual could potentially import or construct a WMD, and use it to effect mass civilian casualties, the instant of imminent threat is much more difficult to detect and define.³²¹

³²⁰ Ibid., 14.

³²¹ Ibid., 15.

This nature of this changed environment is also formed by the threats posed by sub-state groups that are difficult to target and fight. The covert support of such groups by states antagonistic to the US – which increases the seriousness of the threat, but does not necessarily make the identification of the threat any less difficult – exacerbates the non-state aspect. Finally, there is the potential that a chemical, biological, or nuclear WMD might be supplied to a sub-state group by a "rogue state". Therefore the US perceives itself as facing the continuous possibility that a group that is not a state (but perhaps receiving some degree of assistance from one) may act to inflict unprecedented civilian casualties in a way that is extremely difficult to defend against.

Yet despite the strident assertion that these contemporary security challenges are so novel that the US must be allowed to meet them as it sees fit, its proposed actions remain highly controversial. The wisdom of setting aside existing procedures and institutions in order to increase its freedom of action is far from apparent. Further, whether the US can legitimately implement such a sweeping change in accepted behavior, on its own authority alone, is also a controversial issue.

In legal terms, the NSS argues for a new interpretation of the traditional concept of preemptive self-defense. The US claims a legal basis for anticipatory action, pointing to a norm allowing preemptive military action that is found in customary international law. Since this traditional concept was accepted by the international community as legitimate in times past, it is viewed as a legitimate basis which should be adapted to the "capabilities and objectives of today's adversaries".³²² There is much disagreement among international lawyers that a customary right of preemptive self-defense still exists; and even if it does, the leap to "adapting" the concept of preemption so as to

³²² Ibid. The document does not address the issue of the UN Charter superceding the legitimacy of customary international law in matters concerning the use of force – a crucial argument made against the legitimacy of preemptive or preventive military action.

facilitate the unilateral use of force is problematic at best. Even if some sort of right of preemptive action is sometimes legitimate, the assertion that a lone state can unilaterally determine future threats – and then unilaterally use force to forestall them – is questionable, though not insupportable. This fact is borne out by the reaction that the release of NSS 2002 engendered, which is examined next.

II. The 2002 NSS of the US and External - Affective Exceptionality

5.0 The Reaction to the 2002 NSS

This chapter will concentrate on the relatively short-term reactions to the release of the 2002 NSS – that is, those enunciated before the publications made in response to the US invasion of Iraq. In part, this is because the earlier reactions concentrate on legal and political implications of the document itself and its logic. After Spring 2003, the scale and importance of the war in Iraq meant that discussion of preemptive self-defense took on a more general, less document-specific character.

When considering the reaction to the release of the 2002 NSS, it is important to focus on the reaction to the Strategy, as distinct from reaction to the decision to invade Iraq. Even before the invasion, the NSS was seen by some as providing a rationale and justification for military action against Iraq that had already been decided upon by the president, or that the administration thought was possible or probable.³²³ After the invasion, the prudence, and practicality, of establishing a policy orientation based on the use of military force to preempt emerging threats was seen through the lens of the experience in Iraq. Of course the preemptive policy enunciated by George W. Bush (first in his West Point speech and given prominence in the NSS), and the subsequent decision to invade Iraq (in the professed belief that Iraq was concealing chemical and biological weapons programs and stockpiles), can not be viewed in complete isolation from each other.

³²³ Kirshner states the Strategy was formulated "with one eye (at least) towards a military confrontation between the United States and Iraq", and that it has implications above and beyond providing "the strategic and philosophical justification for a U.S. invasion of Iraq". See Jonathan Kirshner, "Prevent Defense: Why the Bush Doctrine Will Hurt U.S. Interests," in *Iraq and Beyond: The New U.S. National Security Strategy*, Occasional Paper #27 (Peace Studies Program, Cornell University 2003), 8,1.

The degree to which the existence of WMD in Iraq was seen by some as a confected rationale also might have some bearing on perceptions of the 2002 NSS. There is little hard evidence that the US administration set out to mislead the public by fabricating evidence of a WMD threat in Iraq. However, it is undeniable that unusual intelligence analysis procedures and personnel were put in place, and these almost certainly led to biased conclusions in US intelligence estimates.³²⁴ Also the fact that WMD was identified as a serious concern and a growing threat, and that preemption was identified as an appropriate response, in the same NSS document, means that the issues are difficult to untangle. These two issues are not easily isolated from one another, nor are they easily isolated from the 2003 invasion of Iraq. This difficulty is felt by analysts outside the US as well: for if one is debating whether a certain threat justifies preemptive self-defense, must not one also consider evidence that such a threat never existed?³²⁵

Yet, all the evidence garnered in interviews with officials involved in the drafting and revision of the 2002 NSS before its release supports the assertion that the Strategy was written solely as an updated statement of the nation's national security policy. It was not devised around specific US intentions toward Iraq. Philip Zelikow, the University of Virginia professor who was the main drafter of the working document that became the 2002 NSS, has stated that neither he nor National Security Adviser Condoleeza Rice (who tapped him to draft the document) had Iraq in mind when writing the document.

³²⁴ Nick Ritchie and Paul Rogers, *The Political Road to War with Iraq: Bush, 9/11, and the Drive to Overthrow Saddam*, Contemporary Security Studies (London; New York: Routledge, 2006). See especially "Chapter 9: Finding the Evidence".

³²⁵ Sven Biscop and David Mendeloff, "Power to the System: The UN High-Level Panel and the Reinvigoration of Collective Security Conference Proceedings," *Studia Diplomatica* LVIII, no. 2 (2005). See the statement by Dr. Martin Ortega, Research Fellow at the EU Institute for Security Studies, in "Part 1: A New Consensus on the Use of Force?".

As Professor Zelikow put it

But the document was not giving policy guidance for what to do about Iraq in 2002; nor was it reflecting judgments that had already been made about action against Iraq. Contrary to much public speculation, the present-day Iraq issues played no part whatever in my work on the document. I did not even have especially strong views on the Iraq question. Nor did plans or thoughts about Iraq have any influence on Rice's direction and input into the NSS. Some of this misunderstanding understandably arises from the fact that, although the document was mainly formulated in the winter of 2001-2002, it did not emerge into public view until September 2002, seemingly coincident with the Bush administration's moves to use military power to force the issue of Iraqi WMD. Although Rice tried to rebut any inference from this coincidence in her October 2002 Wriston lecture, the unfortunate association remains.³²⁶

Franklin Miller, as the NSC Senior Director for Defense Policy and Arms Control, oversaw the NSC Directorate that has been charged with the production of the mandated NSS document. His views differ somewhat from those of Zelikow in terms of the practical utility of the document; Miller viewed the production of the document largely as "ticking a box". However he likewise detected no attempt to justify a US stance against Iraq through the production of the Strategy, and indeed views military action against Iraq as justifiable without the concepts developed in the 2002 NSS. Mr. Miller asserts

Nor do I believe ... that the enunciation of the policy foreshadowed what we did in Iraq, or that it was designed to foreshadow or justify that. I don't believe that for a second. ... Was it retrospectively designed to provide some cover for invading Iraq? I don't know. I mean I think that people didn't need that particular public justification to do so.³²⁷

One of the top Pentagon officials charged with reviewing the 2002 NSS before its publication was Andy Hoehn. Mr. Hoehn worked with Doug Feith in the Defense Department, and became involved with the document after Secretary Rumsfeld tasked

³²⁶ Philip Zelikow, Personal Communication, 19 Dec 2007.

³²⁷ Franklin Miller, Interview, 06 Nov 2006.

Feith with reviewing the draft Strategy that had been circulated to him. Hoehn states that one of the main concerns of the group of top Defense personnel who reviewed the 2002 NSS was with limiting the stated parameters for when preemptive action was to be considered: namely, limiting it to situations involving states outside the international fold who were pursuing the acquisition of weapons of mass destruction. This concern was not meant to tailor the document for use against Iraq, but to limit the application of preemption in general. Mr. Hoehn judges one of the primary strengths of the document to be its long-term strategic outlook and application, and finds it regrettable that some view the document as mainly a justification for taking action against Iraq:

Then, people that even initially looked at this [the 2002 NSS] and viewed it rather favorably, then began to distance themselves because they perceived it to be the justification for a specific action as opposed to a longer term strategy statement for the country.³²⁸

That these three individuals – the external drafter of the document, an official with oversight responsibilities at the White House, and a top official at the Pentagon – all concur that the document was not designed to justify a US war against Iraq is really quite striking.

However the intention of the present chapter is to focus on the perception of the NSS, and of the policy of preemption included in it, before the military invasion of Iraq. Had caches of hidden WMD been found, had the oppressed Iraqi people hastily unified in the endeavor to create a new democratic state, had US forces left the country quickly and thus not been viewed as an occupying force by other countries and the Iraqis themselves, then the strategy of preemption might now enjoy greater support. Certainly preemption, as described by the Bush administration in the NSS, would have been viewed differently.

³²⁸ Andy Hoehn, Interview, 20 Dec 2007.

It is useful, then, to attempt to look for reactions to the NSS that are, as much as possible, distinct from the issue of Iraq. This is not an easy task, as the confrontation between the US and Iraq was continuing, and the possibility of US military action against Iraq was beginning to loom large at the time the NSS was released. Indeed, part of the reason the NSS received such attention was that it was released at the same time the international community was grappling with whether war against Iraq was justified.³²⁹ Yet to the extent possible, the reaction to the NSS and the reaction to the invasion of Iraq should be isolated – at least temporarily – in order to gauge the novelty of the document.

This approach is not meant to invalidate or diminish the importance of these initial critiques in terms of their ongoing usefulness and relevance. This is especially true since they form at least part of the intellectual substance of subsequent, larger debates on preemptive and preventive self-defense. However, the attempt to keep the responses generated by the war in Iraq separate from responses generated by the publication of the 2002 NSS itself does help to contextualize these initial critiques.

Similarly, just as it is difficult – but desirable – to differentiate between reaction to the 2002 NSS and reaction to the US invasion of Iraq that followed close upon its heels, it is difficult but desirable to distinguish between reaction to the 2002 NSS and reaction to the person and policy disposition of George W. Bush. Many politicians, academics, and members of the public had of course already formed opinions of the man and judgments of the first policy stances and directions taken by his new administration. The intention in trying to separate reaction to the NSS from reaction to the administration that

³²⁹ This issue of timing was mentioned by Philip Zelikow; see note 4 above. See also Jolyon Howorth, "The US National Security Strategy: European Reactions," in *Security Strategy and Transatlantic Relations*, ed. Roland Dannreuther and John Peterson (New York, NY: Routledge, 2006), 30.

preceded its publication, and from reaction to the invasion of Iraq that came to dominate the time just after its publication, is to ascertain as much as is possible the reaction generated by the NSS, in order to assess the import of the document.

The previous policies of the administration helped to define the way it perceived US national interests and goals. It has been noted that George W. Bush and Dick Cheney entered office with a desire to expand presidential power. Cheney in particular perceived presidential power as having been curtailed too much after the Nixon presidency and the Watergate scandal.³³⁰ This preexisting disposition no doubt influenced, if not formed, the administration's approach to policy; it was an approach that was often seen as confrontational and insensitive to groups which held alternative views. The disposition of the Bush administration and the qualities embodied in the person of the president preexisted the public presentation of the NSS. The orientation of the Bush administration was not immutable, but it did not undergo radical revision in the NSS. Rather, previous statements and speeches, as discussed above in Chapter Four, foreshadowed and directly provided the content for the 2002 NSS.

5.1 Support for Elements of the 2002 NSS

The release of the NSS document elicited a substantial response. Yet as mentioned in the previous chapter the policies contained in it had, for the most part, been introduced to the public earlier. The President had spoken of the need for a "new strategic framework" to address threats such as cyberterrorism and weapons of mass destruction

³³⁰ Baker and Abramowitz, "A Governing Philosophy Rebuffed: Ruling Emphasizes Constitutional Boundaries."

over a year before.³³¹ He had also asserted that the US was threatened by terrorist groups who intended to acquire and use weapons of mass destruction, and by states who were attempting to develop such weapons through clandestine programs.³³² The need to act preemptively before threats "fully materialize" was a significant component of the President's West Point speech.³³³ One might have expected that the initial policy choices and announcements made by the administration would have received a more considerable reaction than when bundled and reiterated for the mandated NSS document. This is telling in regard to how much importance has begun to be assigned to the NSS in its form as a Congressionally mandated document, which only came about in 1986. Part of the reason may also be the timing in this particular case, coming as it did just after the events of 11 Sep 2001 and the announced disposition that preceded it (e.g., a unilateral bent, and disdain for certain treaty regimes and multilateral institutions), and just before the policies that followed it (e.g., the invasion and administration of Iraq).

Especially in the US, the dividing lines between policy, academic, and press critiques are in practice not always distinct. Advocacy of one sort or another is often discernible. Because of this, this chapter will not attempt to rigidly segregate these groups from one another. Rather, a more holistic and thematic approach will be taken. Some of the reactions that were generally supportive of the 2002 NSS will now be considered. These relatively supportive reactions, as well as more critical ones that will be discussed later in this chapter, can be thought of as responding to the Strategy's unilateral disposition,

³³¹ United States. President George W. Bush (2001-2009), Remarks by the President to the World Bank on 17 Jul [cited date as above].

³³² United States. President George W. Bush (2001-2009), President Salutes Troops of the 10th Mountain Division: Remarks by the President to Troops and Families of the 10th Mountain Division on 19 Jul 2002 [cited date as above].

³³³ United States. President George W. Bush (2001-2009), President Bush Delivers Graduation Speech at West Point United States Military Academy on 01 Jun 2002 [cited date as above].

reliance on preemption, legality, and other elements that were seen as central to the document.

Unilateral Disposition

Supporters pointed out that it was not unusual for states to take unilateral actions, and contended that the tone of the Strategy was not really as unilateral as some thought. Some responses noted that even countries seen as having a strong commitment to the use of multilateral decisionmaking regarding the use of force have sometimes seen fit to make their own, unilateral decisions. For example, states sometimes take action without multilateral consultation, and at other times simply refuse to support multilateral decisions and actions – such as when Germany reserves the right to not support multilateral uses of force that it may have come out in favor of.³³⁴ A related issue surfaces when individual states do not contribute to enacting decisions they took collectively as members of the international community.³³⁵

Of course the freedom to use military force against their own populations is viewed as a sovereign prerogative by states that possess a relatively nascent democratic tradition. These states view their actions as an internal matter, such as when Russia decided to intensify its military campaign in the civilian areas of Chechnya in 1999.³³⁶ Yet states

³³⁴ Walter B. Slocombe, "Force, Pre-Emption and Legitimacy," *Survival* 45, no. 1 (2003): 120.

³³⁵ An example is when generally agreed upon multilateral actions, such as the deployment and provisioning of peacekeepers, fail to receive multilateral support. The difficulty in fully implementing UNAMID, the UN peacekeeping operation in Darfur, is just such an occurrence. See Andrew Heavens, "Darfur Mission May Last 10 Years: Unamid General," *Washington Post*, 13 Mar 2008. See also UN News Centre, *Peacekeeping Grows yet International Support Uneven – UN Officials* 11 Mar 2008 [cited 19 Mar 2008]; available from <http://www.un.org/apps/news/story.asp?NewsID=25933&Cr=peacekeeping&Cr1=dpko>.

³³⁶ This was done over some international objections, although the US remained largely "indifferent" See Zbigniew Brzezinski, *Second Chance: Three Presidents and the Crisis of American Superpower* (New York: Basic Books, 2007) 120.

with a much more established liberal democratic tradition, such as the United Kingdom and France, also exhibit a propensity to take unilateral action.³³⁷

Regardless of how prevalent unilateral action is in contemporary affairs, defenders of NSS 2002 further argued that it is harder for a state to be "unilateral" in practice than in theory. The more challenging the circumstances of the situation, it was reasoned, the more difficult to take "truly unilateral action".³³⁸ The fact that the 2002 NSS makes note of the need for international cooperation, especially with regard to NATO and European Union member states, was cited by these supporters. Indeed, a prominent US historian asserted that the Strategy was more multilateral in tone than the last such document issued by the Clinton administration.³³⁹

Preemption

Those supporting the Strategy endorsed the use of preemption to deal with perceived threats, including states as well as non-state actors. There is a distinction to be drawn between a preemptive attack that targets a specific facility in a state – such as a nuclear reactor or chemical plant – and one which targets the regime which rules that state.

Interestingly, in their response to the Strategy, some argued that targeting regimes

³³⁷ Britain intervened in Sierra Leone in May 2000 when RUF forces were advancing on the capital. France intervened in Cote d'Ivoire in September 2002 after an attempted coup against the government, and later bombed the nation's air force in November 2004 after the government broke a ceasefire and commenced an aerial attack against rebel forces in the north that resulted in the deaths of nine French soldiers. Dan Smith argues that while there is a "growing pattern" of unilateral interventions ostensibly in support of "conflict mitigation" or other humanitarian objectives, that a major drawback of this pattern is the possibility of alienating formal multilateral organizations that might otherwise play a more substantial and constructive role in post-conflict reconstruction. See Dan Smith, *Alternatives to War* (Friends Committee on National Legislation, 2004 [cited 19 Mar 2008]); available from http://www.fcnl.org/smith/peace_org_212-04.htm.

³³⁸ Slocombe, "Force, Pre-Emption and Legitimacy," 120.

³³⁹ John Lewis Gaddis, "A Grand Strategy of Transformation," *Foreign Policy*, no. November/December (2002).

would sometimes be the more practical course of action.³⁴⁰ For example, if no physical targets are known, or if a regime is perceived as likely to quickly reconstitute unconventional weapons programs that might be destroyed in a preemptive military attack, then it is argued that the regime itself is a more practical target in terms of achieving the goal of eliminating the development of such unconventional weapons.³⁴¹

In defending the Strategy against early criticism, these supporters rejoined that the policy of preemption was not too expansive, arguing that it was focused only on terrorist groups and "rogue states" seeking to acquire weapons of mass destruction. It was contended that the states that could be so classified were very few in number: principally those the administration dubbed an "Axis of Evil", Iraq, Iran, and North Korea. In responding to worries that other states might also adopt the policy of preemption, but as a cloak for their own ambitions or aggression, supporters acknowledged the possibility. However, it was argued that such bad behavior was already apparent, since international law could not prevent it in practical terms of enforcement.³⁴²

Interestingly, even some supporters of the Strategy noted that a double standard was being applied where preemptive military action was concerned. For them, though, the issue centered around US criticism of Israel. If the US had announced and was following such a policy itself, they argued, it should not simultaneously criticize the Israeli government for taking the same kind of action in the occupied territories. The administration's support of regimes in the Middle East who possessed undemocratic

³⁴⁰ Slocombe, "Force, Pre-Emption and Legitimacy," 127.

³⁴¹ Possible difficulties in targeting weapons programs have been discussed by Graham Pearson. Pearson has highlighted the importance of not getting "sidetracked by a search for stockpiles of weapons", since it is quite possible for a state to acquire a "mobilization capability" that would enable it to produce such weapons only when and where they are needed. See Graham S. Pearson, *The Search for Iraq's Weapons of Mass Destruction: Inspection, Verification, and Non-Proliferation* (Houndmills, Basingstoke, Hampshire; New York: Palgrave Macmillan, 2005) 274.

³⁴² Joshua Muravchik, "The Bush Manifesto," *Commentary* 114, no. 5 (2002).

features and tendencies was likewise seen at odds with the Strategy's stated support for democratic freedom and individual rights.³⁴³

Legality

An issue interconnected with the policy of preemption is the legality of such action.³⁴⁴ On this score, it was contended that the distinction between use of force for defense, and use of force for aggression, has always been a grey area. Supporters pointed out that self-defense is recognized as legitimate in the UN Charter, and as an "inherent" right, not one brought about by the creation of the Charter.³⁴⁵ It remained an unresolved question at what point self-defense is justified, "on the spectrum of prevention, pre-emption, and response".³⁴⁶ At any rate, the idea of preemptive self-defense (as traditionally understood) already enjoyed a significant degree of acceptance both in the US and around the world.³⁴⁷ The US had also stressed the right of using force unilaterally. This right was asserted in regard to supporting democracy movements, as in the so-called "Reagan Doctrine".³⁴⁸ It was asserted in regard to the protection of US interests as well, as in the Clinton administration's 1998 National Security Strategy. Such "vital interests" were broadly defined as

"... the physical security of our territory and that of our allies, the safety of our citizens, our economic well-being and the protection of our critical infrastructures. We will do what we must to defend these interests,

³⁴³ N. Podhoretz, "In Praise of the Bush Doctrine," *Commentary* 114, no. 2 (2002).

³⁴⁴ While some of the legal questions surrounding the 2002 NSS are discussed here in terms of the initial responses given to the document, the interface of the Strategy with international law will be taken up in more depth below in Chapter Eight.

³⁴⁵ Slocombe, "Force, Pre-Emption and Legitimacy," 123.

³⁴⁶ *Ibid.*

³⁴⁷ Franck, "What Happens Now? The United Nations after Iraq," 619.

³⁴⁸ Anthony S. Winer, "The Reagan Doctrine, the 2003 Invasion of Iraq, and the Role of a Sole Superpower," *Law and Inequality Journal* 22, no. 2 (2004): 181.

including—when necessary—using our military might unilaterally and decisively."³⁴⁹

After the attacks of 11 September 2001, the rights to act preemptively and unilaterally were obviously claimed more prominently and frequently, especially with regard to terrorist organizations and states sponsoring them or offering them sanctuary.³⁵⁰

To the extent that preemption had been defined in the past, some argued that the Strategy's assertion of a right to act preemptively was consistent with the formulation made by US Secretary of State Daniel Webster in the 1837 *Caroline* case. They pointed out that even in Webster's restrictive formulation, it is the "necessity" of self-defense that must be "instant" and "overwhelming", rather than the armed attack itself. This point is used to refute the proposition that only an imminent armed attack can provide the "instant" and "overwhelming" need for preemptive military action.³⁵¹

Supporters of the Strategy asserted that the document was actually supportive of international law, pointing to the fact that the document made an explicit argument for the legal justification of a new policy of preemption.³⁵² However, even some of these supporters of the Strategy viewed the possibility that the policy of preemption would weaken international law as worrying. It was recognized that the US needs the legitimacy that international law affords. Yet while worrying, it was argued that the policy of preemption outlined in the Strategy *was* legal, and so would not weaken international law; and the Strategy explicitly pointed to a grounding for preemption in

³⁴⁹ United States. President William Jefferson Clinton (1993-2001), "A National Security Strategy for a New Century," 5.

³⁵⁰ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 6.

³⁵¹ In the view of some experts who viewed nonproliferation treaty regimes as incapable of effectively dealing with the threat of WMD, there was simply no real alternative to preemption. See Jason D. Ellis, "The Best Defense: Counterproliferation and U.S. National Security," *The Washington Quarterly* 26, no. 2 (2003): 124. See also Slocombe, "Force, Pre-Emption and Legitimacy," 125.

³⁵² Gaddis, "A Grand Strategy of Transformation."

international law. It was further argued that the distinction between what is traditionally understood as "preemptive" and what has been understood as "preventive" is not a clear one.³⁵³

Other Elements

The overall significance of the Strategy was also stressed by those supporting it. Assertions were made that the Strategy was not only more significant than past strategies because of its content, but also because of its context; this was the first national strategy document issued by the Bush administration since the attacks of 11 Sep 2001, and Bush had already announced his "war on terror". Some viewed the 2002 NSS as putting forth a strategy as a landmark equivalent to containment, and viewed both as developing from practical experience rather than theory; while the expansion of communism in the late 1940s stimulated the development of the containment strategy, the attacks of 11 Sep 2001 stimulated the strategy presented in the 2002 document.³⁵⁴ Supporters also argued that the Strategy was an improvement over those of the Clinton years, because they perceived the 2002 document to be more focused on providing an overarching rationale, or new American "grand strategy".³⁵⁵

Some even went to far as to assert that opposition to the Strategy – both domestically and internationally – was based on "envy and fear" of US power and the attendant will to use it unilaterally.³⁵⁶ Those supportive of the Strategy viewed the document in its totality, lauding not only the goal of deterring and preempting threats posed by terrorism and rogue regimes, but also the objectives of fostering harmony among the

³⁵³ Muravchik, "The Bush Manifesto."

³⁵⁴ Ibid.

³⁵⁵ Gaddis, "A Grand Strategy of Transformation."

³⁵⁶ Podhoretz, "In Praise of the Bush Doctrine."

world's great powers and the spread of democracy.³⁵⁷ In the view of some scholars, it was the portion dealing with actively supporting the spread of democracy around the world that was the most far-reaching yet overlooked aspect of the Strategy. This aspect was viewed as a return to a Wilsonian understanding of, and approach to, foreign policy.³⁵⁸

Rather than seeing the Strategy as unrealistic, or failing to match ends and means, some viewed it as informed by an "incandescent moral clarity".³⁵⁹ Indeed, the Strategy was seen as articulating a more idealistic disposition, one that was more activist in its efforts to force the development of democratic progress. George W. Bush's orientation, made apparent in the Strategy, was compared favorably with that of Ronald Reagan. Reagan had also couched foreign policy issues in terms of "good" and "evil"; while Reagan sought to bring an end to the Soviet Union, Bush was now pursuing the goal of ridding terrorism from the world. This was seen by some as a "new fusion of power and principle", a courageous moral and ethical stance that put moral imperatives before the goal of stability central to more "realist" approaches (such as that of the president's father, George H. W. Bush).³⁶⁰

There had been an ongoing disagreement in US policymaking and intelligence circles in the 1990s on whether terrorism was best thought of, and responded to, as criminal activity or as acts of war. Some of those who favored the conception of terrorist attacks as acts of war insisted on the utility of military force to counter them. They applauded

³⁵⁷ Muravchik, "The Bush Manifesto."

³⁵⁸ Ibid.

³⁵⁹ Podhoretz, "In Praise of the Bush Doctrine."

³⁶⁰ Philip Zelikow, "The Transformation of National Security," *The National Interest* 71, no. Spring 2003 (2003): 20. Zelikow was involved in the drafting of the text of the 2002 NSS, and so his article functions as both an authoritative explanation of the thinking behind the Strategy, and a scholarly defense of it.

the new Strategy for asserting – as the president had done before – that the US was in fact engaged in a war with "global terrorism".³⁶¹

Related to this is the fact that at the time of the Strategy's release, some individuals were certain of Iraqi involvement in the attacks of 11 Sep 2001. Because the evidence of such involvement was slim, they welcomed the justification made for taking preemptive action against "rogue states" pursuing the development or acquisition of unconventional weapons.³⁶² Defenders of the document also contended that the declared strategy was important rhetorically, even if policies in practice did not fully conform to it, or live up to its potential. Historical comparison was made with the rhetoric of Reagan, which was said to have provided hope and support to communist dissidents even when Reagan's own policies were at odds with his stated positions.³⁶³

5.2 Negative Criticism of Elements of the 2002 NSS

When considering the reaction of those who were not supportive of the 2002 NSS, one finds negative criticism concerning each of the elements discussed above. This more deprecating criticism centered at times around the goals identified in the Strategy. At other times, it was the means to be used in the pursuit of those goals that was the focus. Detractors also detected a lack of consideration given in the document for unintended negative consequences that might result from its implementation.

³⁶¹ Richard Shultz and Andreas Vogt, "It's War! Fighting Post-11 September Global Terrorism through a Doctrine of Preemption," *Terrorism and Political Violence* 15, no. 1 (2003).

³⁶² Podhoretz, "In Praise of the Bush Doctrine."

³⁶³ Ibid.

Unilateral Disposition

While allowing that it is not unusual for states to sometimes act unilaterally, some critics noted that the Bush administration's Strategy seemed to flout the opinion – and wisdom – of the American public. It was noted that the US public has consistently expressed in opinion polls that it values the support of other nations with regard to use of force. Public support for the use of force is higher when the US is acting with allies. These facts are seen as indicative of not just a prudent public wishing to share risk and cost, but also one that is more confident in the actions of its government when other governments agree and support it.³⁶⁴ For these reasons, multilateral support for US actions is seen as usually desirable. Also, it is usually possible for the US to garner such support, due to the many means of leverage at the disposal of the US.³⁶⁵ Further, the Strategy's emphasis on unilateral action seemed to ignore the fact that multilateral institutions have relevance beyond particular military missions; over time, participation in such institutions can actually lead to shared interests and approaches that enhance peace and stability.³⁶⁶

Preemption

President Bush had previously announced the need for relying more on preemptive military action than in the past. However the inclusion of this point in the Strategy was seen by some as elevating the policy to, and codifying it as, "official US doctrine".³⁶⁷

³⁶⁴ Slocombe, "Force, Pre-Emption and Legitimacy," 120-121.

³⁶⁵ *Ibid.*: 121.

³⁶⁶ Ivo H. Daalder, James M. Lindsay, and James B. Steinberg, "The Bush National Security Strategy: An Evaluation," The Brookings Institution Policy Brief #109 (2002): 7.

³⁶⁷ Robert S. Litwak, "New Calculus of Preemption," *Survival* 44, no. 4 (2002): 58.

Further, preemption was made even more controversial than traditionally debated, when interpreted in the new, expansive way of the Bush administration.³⁶⁸

Many critics of the Strategy perceived a distinct *lack* of clarity in the document, incandescent or not. One example cited is the conflation and confusion of the terms "preemption" and "prevention". In terms of states and unconventional weapons, some viewed these terms as respectively referring to action that might be taken against a state about to use such weapons, and action taken against a state seeking to acquire them.³⁶⁹ More than one critic asserted that what the administration was really proposing was not a doctrine of preemptive military action, but a doctrine of preventive war.³⁷⁰ Others pointed out that taking preemptive action was illustrative of a failure of policy and prevention strategies, that would otherwise have obviated the need to act against whatever compelling situation is at hand.³⁷¹

Some critiques of the Strategy grappled with how to highlight risks inherent in the expansive interpretation of preemptive self-defense promoted in the document, without categorically ruling out preemptive action. Some perceived preemptive action as plausibly necessary in some situations, but viewed such hypothetical situations as only rare occurrences. As one expert put it, even if preemption were legitimate in some circumstances, it was a right that should be "rarely invoked"; and even in such extreme circumstances, it should be remembered that preemptive military action "is as problematic as non-military alternatives".³⁷²

³⁶⁸ Anthony Clark Arend, "International Law and the Preemptive Use of Military Force," *The Washington Quarterly* 26, no. 2 (2003): 89.

³⁶⁹ Litwak, "New Calculus of Preemption," 53-54.

³⁷⁰ Michael Walzer, "No Strikes: Inspectors Yes, War No," *The New Republic* 227(14), no. 4576 (2002): 21. Walzer's article focuses on Iraq, but his discussion of preventive war has direct application to the 2002 NSS. See also John Steinbruner, "Confusing Ends and Means: The Doctrine of Coercive Pre-Emption," *Arms Control Today* (2003).

³⁷¹ Steinbruner, "Confusing Ends and Means." See also Litwak, "New Calculus of Preemption," 71.

³⁷² Litwak, "New Calculus of Preemption," 71.

Detractors warned that acting alone in preemptive military operations would engender hostility towards the US in the international system. Such hostility would actually increase the obstacles to achieving overall US goals.³⁷³ Another question raised about the possible effects of the policy of preemption is whether other states – believing the US to now be more prone to taking preemptive action – might not launch attacks at the US earlier than planned, or perhaps even launch attacks that otherwise would not take place.³⁷⁴ Another sobering observation was the possibility that by lowering the threshold for resort to force, the policy of preemption might lead to increase in traditional, interstate war.³⁷⁵

Others noted that in focusing on preemption, the Bush administration was fixated on only the easiest part of a larger equation. It is relatively less difficult to attack a state, even to prevail militarily, than it is to ensure what takes the place of the regime that has been defeated.³⁷⁶ The preemptive use of force against terrorist groups, as opposed to sovereign states, may enjoy a somewhat greater acceptance. However, such acts as these are also highly contentious, in that they raise issues such as proper legal process, individual rights, and extrajudicial execution.³⁷⁷

Legality

Some critics of the Strategy viewed one of its major pillars, the preemptive use of military force, as downright illegal. Others allowed for some form of preemption in

³⁷³ G. John Ikenberry, "America's Imperial Ambition," *Foreign Affairs* 81, no. 5 (2002): 56.

³⁷⁴ Jeffrey Record, "The Bush Doctrine and War with Iraq," *Parameters* 33, no. 1 (2003): 18.

³⁷⁵ Michael E. O'Hanlon, Susan E. Rice, and James B. Steinberg, "The New National Security Strategy and Preemption," *The Brookings Institution Policy Brief* #113 (2002): 7.

³⁷⁶ Record, "The Bush Doctrine and War with Iraq," 15.

³⁷⁷ Steinbruner, "Confusing Ends and Means."

general, but balked at the Strategy's definition of it. At the root of the disagreement about the permissibility of preemption is a disagreement among lawyers as to whether the UN Charter supercedes the customary international law recognizing preemption. A closely related issue is whether the "inherent right of ... self-defence" mentioned in Article 51 of the Charter includes preemptive self-defense, or not.³⁷⁸

Leaving aside the debate around preemption as it is traditionally understood, the Strategy leads to a new level of controversy by expanding the meaning of "imminence", and relaxing the meaning of "necessity".³⁷⁹ Some – who consider the UN Charter's prohibition on the use of force to be so at variance with state practice as to call into question the standing of the Charter as law – have, even so, argued that a restrictive interpretation of preemptive self-defense be adopted, and UNSC authorization sought, if threats are not "imminent" in the traditionally understood sense. This is because doing so would be less destabilizing than unilaterally enacting a new, expanded, policy of preemption. Further, multilateral support could be better ensured, and thus a wave of unilateral acts of preemption taken by other states more surely prevented.³⁸⁰

Other Elements

Early on, critics asserted a mismatch between goals and the methods used to achieve them in the Strategy's conception of preemption.³⁸¹ In the eyes of these critics, the connection between ends and means appeared unclear. In addition, the goal of

³⁷⁸ Arend, "International Law and the Preemptive Use of Military Force," 92.

³⁷⁹ Ibid.: 96.

³⁸⁰ Ibid.: 102. The increased reliance on force which could lead to greater instability in the international system was mirrored by a decreased reliance on treaty regimes which could lead to more numerous arms proliferation activities. See Daryl G. Kimball, "National Insecurity Strategy," *Arms Control Today* (2002).

³⁸¹ Steinbruner, "Confusing Ends and Means."

completely eradicating terrorism appeared too ambitious to achieve or even effectively measure.³⁸²

In analyzing the Strategy, some scholars drew a distinction between preemption against terrorists, and preemption against states. Some viewed "preemptive" action taken against terrorist groups involved in the attacks of 11 Sep 2001 as not really preemptive at all. Rather, since terrorist groups worked in a coordinated fashion to attack the US, any action taken against them is viewed as responsive rather than preemptive.³⁸³ To those who draw this distinction, the use of preemptive force enunciated in the Strategy has greater implications when applied to the "looming threat" of "rogue states" pursuing the acquisition of unconventional weapons.³⁸⁴

An additional critique of the policy of preemption is that it is impractical, even if legitimate and lawful. This is because to be effective, a preemptive attack – especially against stockpiles of unconventional weapons or the facilities that produce them – requires high-quality intelligence. Such intelligence, that is "comprehensive as well as precise", is viewed as far from easy to obtain.³⁸⁵

Another practical limitation on preemptive action is the response that such action will elicit from the states it is targeted against. For example, preemptive action taken against a state with formidable conventional forces entails a high degree of risk. This is one constraint on US thinking about using force against North Korea; even if nuclear facilities could be attacked quickly and successfully, there is no practical way of

³⁸² Martha Crenshaw, "Terrorism, Strategies, and Grand Strategies," in *Attacking Terrorism: Elements of a Grand Strategy*, ed. Audrey Kurth Cronin and James M. Ludes (Washington, DC: Georgetown University Press, 2004).

³⁸³ Slocombe, "Force, Pre-Emption and Legitimacy," 123-124.

³⁸⁴ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 14.

³⁸⁵ Slocombe, "Force, Pre-Emption and Legitimacy," 126.

negating the immense conventional forces that the regime could use to attack South Korea.³⁸⁶

Some evaluations observed what they perceived as inconsistencies in the document. As some noted, the fact that the Strategy – containing "a *general* doctrine of pre-emption" – was released while the specific consideration of attacking Iraq was taking place created some confusion over the intent of the document.³⁸⁷ Also, preemption seemed to be presented both as a new US policy, and as a long-standing one. The security to be gained from undertaking preemptive action was not balanced against the instability such action could foster, in the form of other states taking similar preemptive actions of their own. The Strategy asserts that deterrence was of limited use against terrorists and "rogue states"; yet commentators noted that while it might be difficult to deter suicidal sub-state actors, states – "rogue" or otherwise – *were* in fact influenced by deterrence.³⁸⁸

A related contention was that the document mistakenly or sloppily conflated two distinct threats, and that a wiser course of action would be to formulate distinct policy agendas to address each threat. These two threats were sub-state terrorism and the proliferation of unconventional weapons, both of which the Strategy argued could be addressed by the same response – preemptive action.³⁸⁹ Some argued that the objective of preempting threats is a valid one, but the means identified in the Strategy by which to

³⁸⁶ Ibid.: 127.

³⁸⁷ Litwak, "New Calculus of Preemption," 60.

³⁸⁸ Ibid.: 59-60. Others noted that while the document argued that deterrence was not as useful as in the past, that it was not rejected altogether; in fact, the goal of maintaining preeminent military capabilities beyond equal may be understood as expanding the role, and understanding, of deterrence. See Daalder, Lindsay, and Steinberg, "The Bush National Security Strategy: An Evaluation," 5. Interestingly, as time has passed, the US administration has somewhat reversed itself on this point by conceding that even sub-state terrorist groups may be deterred. Some Pentagon officials even oversee planning designed to have an "overall deterrent effect" on terrorist groups. See Eric Schmitt and Thom Shanker, "U.S. Adapts Cold-War Idea to Fight Terrorists," New York Times, 18 Mar 2008.

³⁸⁹ Ikenberry, "America's Imperial Ambition," 25. See also Litwak, "New Calculus of Preemption," 53-54.

do so – the coercive, unilateral use of force – are inappropriate to the task.³⁹⁰ These critics pointed to the fact that coercion was an ineffective way of establishing peace and security, which had led to the collective security approach that is enshrined in the UN Charter.

While allowing for the possibility that preemption is lawful in certain circumstances – in the traditional, customary understanding of "preemption" – opponents contended that the scale of the threat posed by sub-state actors employing unconventional weapons made preemptive military action an unsuitable response.³⁹¹ Preemption might plausibly play a legitimate role in countering threats such as the conventional invasion of a state or even aerial bombing. However, it was of a scale that ill-suited the prevention of small, sub-state groups from using easily concealable weapons. Still others questioned the strategic effectiveness of relying on a policy of preemption – even for threats posed by states – pointing to the minimal number of successful preemptive actions taken in the past.³⁹²

The Strategy was also criticized for over-simplifying the prospect of using force against other states. It was pointed out that while an initial military conquest might be successful, that the subsequent tasks of peacekeeping, state building, and reconstruction are critical and take much longer to accomplish. Such tasks increase the cost of military operations in the best of circumstances; if the international community has been ignored or spurned in the decision to use force in the first place, they may refuse to aid critical reconstruction tasks that are more realistically undertaken multilaterally by international

³⁹⁰ Steinbruner, "Confusing Ends and Means."

³⁹¹ Ibid.

³⁹² Richard K. Betts, "Striking First: A History of Thankfully Lost Opportunities," *Ethics and International Affairs* 17, no. 1 (2003).

organizations than by a single state.³⁹³ Critics charged that in emphasizing a willingness to act unilaterally, and preemptively – even against states who are seeking to acquire unconventional weapons, absent a specific intent or threat to use them – the US was focusing on but one facet of its security, and neglecting numerous other national interests.³⁹⁴

It was further pointed out that once the US engages in unilateral, preemptive military action – what may be, or have the appearance of, preventive war – it will be difficult to prevent other states from taking such action of their own. The result of this would be a degradation of international stability. Preemptive action might even provide incentive for some countries to accelerate rather than stop their efforts to acquire unconventional weapons.³⁹⁵

For some, the principles and policies contained in the Strategy amounted to an extraordinary revision of the very post-1945 international order that the US was key to establishing.³⁹⁶ Further, not everyone accepted the Strategy's assertion that the US was simultaneously committed to multilateral institutions and embarking on a new course emphasizing preemptive military action – and a novel form of preemption at that, that "adapt[s] the concept of imminent threat".³⁹⁷ Rather, some saw the elevation of preemption to the level of doctrine as an explicit disengagement from the system of multilateral institutions that the US had helped to create with the goal of increasing its security and reassuring other states about its intentions and capabilities.³⁹⁸

³⁹³ Ikenberry, "America's Imperial Ambition," 57.

³⁹⁴ Steinbruner, "Confusing Ends and Means."

³⁹⁵ Ikenberry, "America's Imperial Ambition," 56-57.

³⁹⁶ Ibid.: 44.

³⁹⁷ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 15.

³⁹⁸ Record, "The Bush Doctrine and War with Iraq," 16.

Finally, it was also contended that the Strategy largely ignored negative consequences that might result from even a successful use of preemptive military force. While the US might successfully attack a weaker state and destroy its capacity to produce unconventional weapons, by using force preemptively and unilaterally, such action would be inherently discriminatory and uncertain of gaining widespread international acceptance. It was argued that the enactment of a policy that is wide-ranging yet lacking in legitimacy would most probably result in acts of retribution.³⁹⁹ Presumably such acts could be both political in the case of the international community, and operational in the case of sub-state actors. Some saw the Strategy as indicative that the US was falling into the pitfall of "imperial overstretch", taking on expansive and costly obligations in order to impose its own agenda and conception of order on the international community.⁴⁰⁰

Perhaps one of the most considered examinations of the elements contained in the Strategy was actually published just prior to the Strategy because enough information was available from speeches and other public sources to discern the direction of the new policy stances taken by the administration. The reliance on unilateral, preemptive use of military force was seen by G. John Ikenberry as threatening

... to rend the fabric of the international community and political partnerships precisely at a time when that community and those partnerships are urgently needed. It is an approach fraught with peril and likely to fail. It is not only politically unsustainable but diplomatically harmful. And if history is a guide, it will trigger antagonism and resistance that will leave America in a more hostile and divided world.⁴⁰¹

³⁹⁹ Steinbruner, "Confusing Ends and Means."

⁴⁰⁰ Jack Snyder, "Imperial Temptations," *The National Interest* 71 (2003): *passim*.

⁴⁰¹ Ikenberry, "America's Imperial Ambition," 45.

5.3 International Reception

While a contentious document, a significant portion of the US response to the Strategy was generally impressed with the 2002 NSS, with some scholars believing that George W. Bush had been underestimated by the liberal wing of the academic community.⁴⁰² Internationally, there was a definite political reaction to the 2002 NSS itself, as distinct from previous US statements and policy positions that emphasized US power and unilateral freedom of action. Due to diplomatic and security ties, it is understandable that a great deal of feedback originated in Europe. Still, some have noted that the NSS aroused a more muted reaction from the academic community outside the US than domestically.⁴⁰³

The timing of the release of the 2002 NSS may have helped to cushion initial international reaction. Its dissemination came just after the first anniversary of the 11 September 2001 terrorist attacks and a speech by President Bush to the United Nations General Assembly that urged international unity in dealing with Iraq.⁴⁰⁴ This may help to explain why some saw the document as providing useful direction for Western democracies in general, as well as for the US. One European pointed out that while preemptive action might or might not be justified against Iraq, that the reasoning behind the Strategy itself was sound. The threat posed by terrorist groups obtaining and using some sort of weapon of mass destruction was judged to be quite real, and a serious concern for Western democracies in general.⁴⁰⁵

⁴⁰² Gaddis, *Surprise, Security, and the American Experience*.

⁴⁰³ Howorth, "The US National Security Strategy: European Reactions," 30. Interestingly, Howorth notes that initially several notable reactions to the NSS that were written by Americans appeared in European journals, and vice versa.

⁴⁰⁴ *Ibid.*, 35.

⁴⁰⁵ Karl Kaiser, "The New World Order," *Internationale Politik Global Edition* 4, no. 2 (2003): 6.

More than one commentator pointed out that scholars and policymakers outside the US recognized the importance of dealing the issues identified in the Strategy as well.⁴⁰⁶ One scholar based in China – a country viewed by the US as a competitor rather than an ally – found many faults with the Strategy, but nonetheless broadly agreed that non-state actors employing "asymmetric warfare" were a legitimate and pressing concern for the US.⁴⁰⁷ It would have to be conceded that agreement ended there, and was much more limited than other reactions originating from countries possessing closer relations with the US.

For example, one European review of the strategy noted the interchangeable way the Strategy used the words "preemption" and "prevention". It noted that much misunderstanding – and even heightened security risks – could result from this imprecision. Yet, it was allowed that the 2002 NSS should be viewed as a "work in progress", one that needed clarification but was not necessarily incompatible with the interests of US allies.⁴⁰⁸

It was also suggested that while the rhetoric of the document was somewhat charged, even radical, that subsequent US policies specific to various situations might be more moderate. Preemptive self-defense was not met with vociferous opposition in every quarter outside the US. The Strategy was faulted for its linguistic ambiguity around this issue, rather than the reliance on preemptive self-defense and the possible expansion of the meaning of the term.⁴⁰⁹ Such critiques were not blind to the contentiousness of the

⁴⁰⁶ Muravchik, "The Bush Manifesto."

⁴⁰⁷ Gu Guoliang, "Redefine Cooperative Security, Not Preemption," *The Washington Quarterly* 26, no. 2 (2003).

⁴⁰⁸ François Heisbourg, "A Work in Progress: The Bush Doctrine and Its Consequences," *The Washington Quarterly* 26, no. 2 (2003).

⁴⁰⁹ *Ibid.*: 76, 81.

document, but argued that much common ground could potentially be found among US allies.

Another commentator chided fellow European critics for not evaluating the 2002 NSS as a whole. While the section on preemption received the bulk of attention, little time was spent on other parts of the Strategy having to do with democracy promotion, economic growth, and development. It was further argued that it was European critics, rather than the American Strategy, that were failing to differentiate between proposed "preemptive" actions and "preventive" actions.⁴¹⁰

Others agreed that the preemption component of the 2002 NSS had received much consideration at the expense of other elements of the Strategy. However, the attention given to preemption by critics was seen as warranted, due to the novelty and contentiousness of preemptive self-defense. Interestingly, the decrease in reliance on deterrence as a strategy was viewed as significant as the increase in reliance on preemption.⁴¹¹

The UK-based International Institute for Strategic Studies concluded that much of the concern over talk of preemption in the 2002 NSS was "misplaced". It noted that the document asserted that the US would consider utilizing preemption against only a limited number of terrorist groups and "rogue states", only two of which were mentioned (Iraq and North Korea). When identifying shortcomings with the Strategy,

⁴¹⁰ Karl-Heinz Kamp, "Prevention in US Security Strategy," *Internationale Politik* Global Edition 4, no. 1 (2003): 17-18.

⁴¹¹ Jean-Yves Haine and Gustav Lindstrom, *An Analysis of the National Security Strategy of the United States of America* (European Union Institute for Security Studies Analyses, 2002 [cited 02 Apr 2008]); available from [http://www.iss.europa.eu/index.php?id=214&no_cache=1&L=0&tx_ttnews\[cat\]=25&tx_ttnews\[pS\]=1009839600&tx_ttnews\[pL\]=31535999&tx_ttnews\[arc\]=1&tx_ttnews\[tt_news\]=670&tx_ttnews\[backPid\]=139&cHash=bf78c07918](http://www.iss.europa.eu/index.php?id=214&no_cache=1&L=0&tx_ttnews[cat]=25&tx_ttnews[pS]=1009839600&tx_ttnews[pL]=31535999&tx_ttnews[arc]=1&tx_ttnews[tt_news]=670&tx_ttnews[backPid]=139&cHash=bf78c07918).

the difficulties inherent in taking successful preemptive action were pointed out, rather than the logic or legitimacy of a preemptive strategy itself.⁴¹²

Others viewed the reliance on preemptive military force as shortsighted and dangerous, both for the international system and the US itself. It was argued that enacting a policy of preemption would carry its own inherent security dilemma. Conceivably, the US would take preemptive military action against a state seeking to acquire WMD, which would in turn lead other states to intensify *their* attempts to obtain such weapons, which would then lead to further preemptive acts by the US, and so on.⁴¹³

Yet on balance, the initial reaction of "informed" Europeans – academics and practitioners – was "actually quite restrained".⁴¹⁴ Even scholars who were skeptical of the US premise that deterrence was of limited utility in countering the proliferation of unconventional weapons accepted that the changed environment might well call for changed strategies.⁴¹⁵ A primary feature of European responses, at least initially, was that they accepted that the Strategy had raised legitimate, pertinent issues. Many advocated further US-European discussion around those issues.⁴¹⁶

5.4 Political Response

There are clear diplomatic and political reasons for heads of state to refrain from a public critique of another nation's security strategy, particularly if it is an ally and/or if

⁴¹² International Institute for Strategic Studies, "The Bush National Security Strategy: What Does 'Pre-Emption' Mean?," Strategic Comments 8, no. 8 (2002).

⁴¹³ Heinrich Vogel, "The End of the "Old West" " Internationale Politik Global Edition 4, no. 3 (2003): 19.

⁴¹⁴ Howorth, "The US National Security Strategy: European Reactions," 31.

⁴¹⁵ Lawrence Freedman, "Prevention, Not Preemption," The Washington Quarterly 26, no. 2 (2003): 105.

⁴¹⁶ Howorth, "The US National Security Strategy: European Reactions," 31.

the strategy is not threatening.⁴¹⁷ The differentiation between responses from political sources, the academic community, and the general public is somewhat artificial. While these constituencies are often considered distinct, they are also interrelated. Often politicians reflect public sentiment, and many current and former policymakers publish in scholarly journals. And of course, it is highly unusual for any one of these constituencies to be unified in their response to a certain issue, and completely at odds with another group. For example, the academic community never is of a single mind when presented with any given issue; even if they were, it is unlikely that the general public – however that is defined – would be in complete agreement or disagreement with "academics" as a group, or "politicians" as a group.

That said, politicians do enjoy a unique stature, and some of their reactions will be touched on briefly. In his early response to the Strategy, the Democrat George W. Bush had defeated, Al Gore, stated that in his view existing UNSC Resolutions were enough to legally justify the invasion of Iraq, if necessary. This being the case, the Strategy was not needed as additional justification for such action. What it did do, in Gore's opinion, was pose a serious threat to the international order established after 1945.⁴¹⁸ John Kerry, who would eventually face George W. Bush in the 2006 presidential election, made the same point at the time of the Strategy's release: if the US could engage in such a policy, other nations could adopt it as well and apply it to a wide variety of situations.⁴¹⁹

⁴¹⁷ The lead-up to the invasion of Iraq in 2003 is an exception in this sense.

⁴¹⁸ Muravchik, "The Bush Manifesto."

⁴¹⁹ Christine Kucia, "Counterproliferation at Core of New Security Strategy," *Arms Control Today* (2002).

Conclusion

It is not yet clear how enduring the 2002 NSS will be in guiding US policy, nor how long its effects will echo. However, in searching for an accommodation of the new threats and new responses identified in the Strategy, the ideas of some critics highlight the possibility of cardinal changes being wrought on the international order. An interesting response that was partly aimed at the release of the 2002 NSS, although with the issue of Iraqi WMD in mind – and framed by the 11 September 2001 attacks – took the form of a number of articles seeking to address the issue of legitimizing the use of force outside the UN Charter framework. Inherent in these arguments is an acceptance that the US must indeed sometimes act alone, as asserted in the 2002 NSS. As discussed, the Bush administration argued that unilateral, preventive military action is justified as a form of legitimate customary self-defense, albeit somewhat expanded and evolved due to developments in technology and the international environment.

These particular articles, however, are intensely critical of the idea of a right to preventive self-defense, and generally reject the legitimacy of using force outside of the UN Charter paradigm. Yet this group seems to have sought a middle ground. While allowing for the possibility that using force without UN authorization may sometimes be necessary, they view it as apparently illegal, and so have proposed alternative mechanisms by which such use of force can be legitimized.⁴²⁰ Some of these proposals include the creation of an entirely new membership organization open only to liberal democracies – an "International Organization of Democracies" or an "Association of Democratic Nations" – that could lead or authorize a use of force if the UN Security

⁴²⁰ See for example Allen Buchanan and Robert O. Keohane, "The Preventive Use of Force: A Cosmopolitan Institutional Proposal," *Ethics and International Affairs* 18, no. 1 (2004).

Council would not.⁴²¹ Others suggest the possibility of institutionalizing the ability of both in- and out-of-area regional security organizations to authorize the use of force absent Security Council approval.⁴²² What is envisaged is a kind of multi-tiered approach to the international regulation of the use of force, with overlapping but distinct institutions – crucially, distinct institutions with distinct memberships – diffusing the authority to sanction the use of force.

To some, the 2002 NSS reflects the continuation of a national security mentality that had been discerned beginning in the immediate post-World War II years. As such it illustrates the "pursuit of the inherently unattainable goal of absolute security, and as such it is a prescription for endless conflict".⁴²³ Decisive, forceful action may give the impression that threats are being confronted, and so minimized. However, as one scholar observed, "The idea of using decisive force against implacable evil may be emotionally satisfying, but it is hardly the basis for responsible policy against today's most likely threats."⁴²⁴

In short, much contention surrounded the release of the 2002 NSS. Much of that contention remains today, six years after its publication. Disagreement existed even

⁴²¹ See for example Irving Brecher, "In Defence of Preventive War: A Canadian's Perspective," *International Journal* 58, no. 3 (2003). See also Stanley Hoffman, "America Goes Backward," *New York Review of Books* 50, no. 10 (2003). Brecher has proposed the use of four criteria to gauge the legitimacy of a preventive war against a state: 1) the presence of gross human rights violations; 2) highly credible evidence of WMD, or perhaps an intense effort to acquire WMD; 3) a clear probability that a close link exists to terrorist groups; and 4) some sort of international approval. Since in his view the 2003 Iraq war meets the first three and UN approval could not be obtained, he suggests the creation of an "International Organization of Democracies" that could authorize force instead. Hoffman suggests a similar possibility, with states able to appeal to an "Association of Democratic Nations" for authorization of the use of force if UN Security Council approval is not forthcoming.

⁴²² See Lee Feinstein and Anne-Marie Slaughter, "A Duty to Prevent," *Foreign Affairs* 83, no. 1 (2004). Feinstein and Slaughter advocate a range of entities that could authorize the use of force against a state. The entities they list, in order of desirability, are: the UN Security Council, a regional security organization most likely to be affected by a threat or situation, a regional security organization with a less direct link to the situation, and finally coalitions of the willing or unilateral action. Their article proposes a corollary to the "Responsibility to Protect": the "duty to prevent" nations run by rulers without internal checks on their power from acquiring or using WMD".

⁴²³ Record, *Dark Victory* 40.

⁴²⁴ Steinbruner, "Confusing Ends and Means."

among those broadly critical of the Strategy: some viewed the NSS as historically understandable (though probably detrimental); others validated the new concerns and threats identified in the document but attempted to conceptualize the response to those threats with novel frameworks and mechanisms; still others viewed it as embodying nothing less than a threat to the entire international system.⁴²⁵

Immediate reaction to the 2002 NSS would in any event have diminished in topicality, although this was almost certainly speeded by the scale and unfolding drama of the war in Iraq. But to the extent that the more substantial of those reactions and analyses provide substance for the wider debates about preemption, we must now turn to the fora where these are conducted in a necessarily slower, more wide-ranging and detailed way. Contention surrounding the Strategy was fueled by the judgment that the 2002 NSS represented a recognition of revolutionary threats, and offered an unprecedented response – a response which might well have far-reaching consequences in terms of the threat of force in international affairs, the changed security environment, and international law. It is these changed and changing areas that will next be explored below.

⁴²⁵ Robert Jervis concluded that the 2002 NSS was "both a normal reaction to an abnormal situation and a policy that is likely to bring grief to the world and the United States". See Robert Jervis, "Understanding the Bush Doctrine," *Political Science Quarterly* 118, no. 3 (2003): 366. Those who proposed novel mechanisms to address the threats identified in the 2002 NSS, in effect attempting to bridge the gap between the policies contained in the document and the current international regime governing the use of force, are mentioned above; see notes 84, 85, and 86. Thomas Franck views the policies enunciated in the 2002 NSS as amounting to a repudiation of the entire UN Charter system. See Franck, "What Happens Now? The United Nations after Iraq," 620.

6.0 NSS 2002 as Exceptional In Terms of the Threat of Force

6.1 Introduction: Definitions and Key Terms

This introductory section begins with a brief discussion regarding the threat of force as an expression of power. The ways in which the threat of force is used will be considered first in general terms, and then with specific reference to NSS 2002. This section will define and standardize the terms to be employed for the remainder of the chapter.

A vast literature exists on the nature of power, and its accrual and exercise.⁴²⁶ An investigation of power lies outside the scope of this thesis; however, the relation of the use of force to power must be clarified. For present purposes, power may be defined as the ability of an actor state to get a target state to do (or refrain from doing) what the actor state prefers. Whatever might be the objective conditions for power – such as the resources available to a state, including the size and effectiveness of its military – its quality is essentially relational.

Nations make use of many tools of power when interacting with one another. Military force is one of these tools. However, force is not the only tool states possess to wield power. Nations also express their power through other means that do not rely on the use

⁴²⁶ See for example the following: Felix Berenskoetter and Michael J. Williams, eds., *Power in World Politics* (New York: Routledge, 2007). Robert O. Keohane, *After Hegemony: Cooperation and Discord in the World Political Economy* (Princeton, N.J.: Princeton University Press, 1984). Robert O. Keohane and Joseph S. Nye, *Power and Interdependence*, 3rd ed. (London: Longman, 2001). Richard Ned Lebow, *Coercion, Cooperation, and Ethics in International Relations* (New York: Routledge, 2007). Steven Lukes, *Power: A Radical View* (London; New York: Macmillan, 1974). Steven Lukes, ed., *Power* (New York: New York University Press, 1986). Hans J. Morgenthau, *Politics among Nations: The Struggle for Power and Peace*, 3d ed. (New York: Knopf, 1960). Joseph S. Nye, *Bound to Lead: The Changing Nature of American Power* (New York: Basic Books, 1990). Nye, *The Paradox of American Power*. Bertrand Russell, *Power: A New Social Analysis* (New York: W.W. Norton & Company, 1938). Richard J. Stoll and Michael Don Ward, eds., *Power in World Politics* (Boulder, CO: Lynne Rienner Publishers, 1989). John A. Vasquez, *The Power of Power Politics: From Classical Realism to Neotraditionalism* (Cambridge, UK; New York: Cambridge University Press, 1998).

of military force. Means of expressing or projecting power that do not involve the physical use of force include the use of economic strength and diplomatic influence.⁴²⁷

Some tools are wielded through inducements and threats: military force is one example; economic strength is another.⁴²⁸ Other tools of power mainly rely on attraction rather than coercion for their utilization. If a state possesses values and institutions that are admired by others who wish to emulate it, a degree of power accrues to that state.

Coercive power, and forms of "soft power" that rely more on an ability to attract than to compel, do not exist separately; they are linked, and often reinforcing.⁴²⁹ Whether the former or the latter, the credibility of the state affects its ability to wield power, and the respect of others for that power.⁴³⁰ The use of military force is often the most violent expression of power, and may be the bluntest. However military force it is not the preeminent form of power in all circumstances; it is only one of many means that are available to states as they confront myriad situations.⁴³¹

Broadly, the tools of power fall into three categories: inducements, persuasion, and coercion. Inducements are also referred to as rewards.⁴³² Persuasion may be accomplished through the use of propaganda or diplomacy. Coercion primarily takes the form of threatened or actual use of economic or military force.⁴³³ However, this is not always the case; for example, a state might compel another to take certain actions

⁴²⁷ However it should be noted that some expressions of a state's power that do not involve military force, such as economic measures, may have severe humanitarian effects. For example, the imposition of unilateral restrictions on trade, or multilateral economic sanctions, may lead to the loss of life under certain circumstances.

⁴²⁸ Nye, *The Paradox of American Power* 9.

⁴²⁹ *Ibid.* 10.

⁴³⁰ *Ibid.* 68.

⁴³¹ Frederick S. Calhoun, *Uses of Force and Wilsonian Foreign Policy*, *American Diplomatic History* (Kent, Ohio: Kent State University Press, 1993) 143.

⁴³² Inducements are also sometimes referred to in the literature as "bribes", "carrots", or "bargains", though these terms will not be so used here.

⁴³³ John M. Rothgeb, *Defining Power: Influence and Force in the Contemporary International System* (New York: St. Martin's Press, 1993) 95.

without using military force. In such a scenario, the one state has coerced the other, though the use of force was not present.

Inducements tend to be effective only for temporary periods; as time passes and situations change, actor or target or both often begin to feel as if they are giving more than receiving in the exchange. Other limitations of inducements include the possibility that actor and target will develop a misunderstanding of what was agreed in terms of exchanging a behavior for a benefit.⁴³⁴ Benefits of such an exchange include the fact that inducements cause less damage to relations between actor and target than coercion tends to, and may actually improve relations between the two. Actor states retain the ability to influence another state without engendering the level of resentment that often accompanies the use of force, and relatedly, enjoy a better possibility that behavior will be more willingly modified – and modified to a greater degree towards the desired ideal – than when force is used. At other times, the *offer* of an inducement can mask an attempt to make later use of force seem more justified, and can exacerbate tensions in an existing atmosphere of distrust.⁴³⁵

Persuasion is distinct from inducements. In political or economic arenas, persuasion aims to establish shared values or interests, and is usually targeted at elites. Propaganda, in contrast, is the biased and sometimes inaccurate dissemination of information, and is usually aimed at the masses; it focuses on the psychology of the public of the target state.⁴³⁶ Persuasion concentrates on the possibility of convincing the target nation – the leadership, general population, or both – that the acting nation has legitimate goals and/or it is in the target's interest to comply with the acting nation's ends. An acting state is most likely to successfully influence target states when it uses multiple tools

⁴³⁴ Ibid. 117.

⁴³⁵ Ibid.

⁴³⁶ Ibid. 118-119.

simultaneously, for example combining inducements with coercion or logic with inducements.⁴³⁷ Yet whether a combination of tools is employed or only a single one, it is important to recognize that the absence of force does not mean that no violence is present, as "[v]iolence is most purposive and most successful when it is threatened and not used."⁴³⁸

Inducements are most effective when distrust and animosity have been minimized, and persuasion is most effective when distrust and animosity have been almost entirely eliminated; coercion may be most effective when a significant degree of distrust and animosity are present.⁴³⁹ Coercion primarily takes two forms: the use of military force and use of economic resources.⁴⁴⁰

All of this is to say that force is but one type of coercion, and coercion is but one tool of power. The prospect of force – willful physical violence – is frightening, and in actuality may have devastating consequences. It has therefore garnered much attention from scholars of international politics; but it is crucial to be mindful of the fact that other types of coercion and other tools of power can be of equal or greater utility than the use of force. They, like force, can also entail violence and carry a high human cost, albeit less directly than the use of force.⁴⁴¹

⁴³⁷ Ibid. 95-96.

⁴³⁸ Thomas C. Schelling, "The Diplomacy of Violence," in *International Politics: Anarchy, Force, Political Economy, and Decision-Making*, ed. Robert J. Art and Robert Jervis (Boston: Little, Brown and Co., 1985), 175.

⁴³⁹ Rothgeb, *Defining Power* 131.

⁴⁴⁰ Ibid. 138. Each of these forms can be subdivided into the categories of defense, deterrence, and compellence.

⁴⁴¹ For example, the economic sanctions imposed on Iraq in the years between the 1991 Gulf War and the 2003 Iraq War led to significantly increased child mortality in the country. See Mohamed M Ali and Iqbal H Shah, "Sanctions and Childhood Mortality in Iraq," *The Lancet* 355, no. 9218 (2000). It is difficult to untangle the consequences of the 1991 war from the consequences of the sanctions, but estimates of the number of child deaths that resulted from both lie in the hundreds of thousands. See Mohamed M. Ali, John Blacker, and Gareth Jones, *Excess Mortality in Iraq* (Centre for Population Studies, 2003 [cited 11 May 2008]); available from <http://www.lshtm.ac.uk/cps/public/excess%20mortality%20in%20Iraq.pdf>.

Somewhere between outright coercion (be it the threat of economic or military force), and peaceable negotiation, lies "coercive diplomacy". Coercive diplomacy involves the use or threat of force to convince actors to consider negotiation or accept a certain negotiated solution.⁴⁴² The utility of coercive diplomacy is not universally accepted. Some policymakers believe that coercive diplomacy should not be used. Some have held that coercive diplomacy, which often initially involves air strikes or naval deployments and the like, leaves the ball in the adversary's court; this is because the adversary can then decide to escalate or deescalate the situation as it chooses.⁴⁴³

Craig and George draw a distinction between coercive diplomacy and "pure coercion", or sole reliance on the use of force to compel a target. Pure coercion would include the invasion without warning of another state, or the defensive reaction to invasion aimed at regaining lost territory. Coercive diplomacy, in contrast, focuses on using only the amount of force that is necessary in order to demonstrate commitment to, and credibility in, furthering or protecting interests. Coercive diplomacy gives the opponent opportunity to change behavior before force is used and hence before force is escalated.⁴⁴⁴ While pure coercion only requires force, coercive diplomacy usually requires a judicious use or threat of force, along with "negotiation, bargaining, and compromise".⁴⁴⁵ As such, coercive diplomacy or bargaining is "not concerned with the

⁴⁴² For example pressuring Iraq to accept UNSC Resolutions and vacate Kuwait, while threatening the use of force against Iraq if it did not vacate Kuwait, is an example of coercive diplomacy. The actual eviction of Iraq from Kuwait in 1991 would be an example of compelling Iraq to do so through the actual use of military force. See Paul Gordon Lauren, "Coercive Diplomacy and Ultimata: Theory and Practice in History," in *The Limits of Coercive Diplomacy*, ed. Alexander L. George and William E. Simons (Boulder: Westview Press, 1994), 26. Indisputably, forceful coercion does find application in international politics, sometimes to great effect.

⁴⁴³ Record, *Making War, Thinking History* 29. This was the position taken by Caspar Weinberger, the US Secretary of Defense from 1981-1987. Record disagrees with Weinberger on these points, arguing that Weinberger's line of thinking ignores the ability of the US to change its mind or exercise its "free will", and the fact that potential adversaries are each unique and different. Weinberger's thinking, and the public debate that took place between him and Secretary of State George Shultz, will be discussed later in this chapter in the context of limits on the use of force.

⁴⁴⁴ Gordon Alexander Craig and Alexander L. George, *Force and Statecraft: Diplomatic Problems of Our Time*, 3rd ed. (New York: Oxford University Press, 1995) 196.

⁴⁴⁵ *Ibid.* 199.

efficient *application* of force but with the *exploitation of potential force*".⁴⁴⁶

Coercive diplomacy attempts to influence the motives of others, as opposed to attempting to defeat the strength of others.⁴⁴⁷ Sometimes the difference between "pure coercion" (with the aim being victory on the battlefield), and more limited coercion (with the aim being pressuring a target to accept a certain settlement), is also dependent on intent. If mass killing of troops on the battlefield is intended to eliminate an obstacle to achieving military objectives on the road to winning a war, brute force is applied. If the same mass killing is intended to create anguish in the opposing nation and make surrender look like a good option, the same level of violence is being directed toward a different coercive end.⁴⁴⁸ The bombing of civilian centers in World War II is a case in point. Indeed, much the same logic applies to militarily-enforced, comprehensive sanctions.

Therefore, the difference between the two – all-out war fighting and more limited uses of force to achieve certain objectives – can be very slight, or the emphasis can change from one to the other quickly and with little notice. It is even possible that the two might be in play simultaneously; with mass killing occurring on the battlefield, an actor state may be willing to accept either outcome (the elimination of obstacles in the form of enemy troops, or the compellance of the enemy state to accept negotiation or surrender).

It is desirable to distill from the preceding discussion those terms and definitions which will be used throughout the remainder of the chapter. What follows are generic

⁴⁴⁶ Thomas C. Schelling, *The Strategy of Conflict* (Cambridge,: Harvard University Press, 1960) 5. Emphasis in the original.

⁴⁴⁷ Schelling, "The Diplomacy of Violence," 172-173.

⁴⁴⁸ *Ibid.*, 173.

definitions and applicable terms that will be used in discussing state-level threats of force made for political purposes. These terms are meaningful and useful abstractions which nonetheless do not entirely capture the complex realities of state dispositions and behaviors. For ease of reference, these terms are presented below in Table 6.1.

| | |
|--------------------|--|
| coercion | compelling a target state to take certain actions, or deterring a target state from taking certain actions |
| coercive diplomacy | a blend of incentives, persuasion, and coercion – sometimes including the use of force; stresses using only the amount of force that is necessary in order to demonstrate commitment to and credibility in protecting interests; affords the target state the opportunity to change behavior before force is used and before force is escalated; usually requires a judicious use or threat of force while negotiation continues |
| compel | pressure a target state into a desired change in behavior, often through the use or threat of force |
| deterrence | preventing a target state from taking certain actions through denial or punishment; that is, by communicating to the target state that a potential action will be unsuccessful, or that the potential action will result in a costly punishment |
| force | the kinetic utilization of military resources, often involving physical violence |
| (threat of) force | the threat of such utilization |
| inducements | rewards given by an actor state, or bargains struck by an actor state, in order to secure the acquiescence of a target state |
| persuasion | through the use of reasoning or propaganda, convincing the leadership or general population of a target state that an actor state has legitimate goals, or that it is in the target state's interest to comply with the actor state's wishes |
| power | the ability of an actor state to direct or influence a target state |
| Preemption | employing force proactively to forestall an imminent attack |
| prevention | employing force proactively to forestall the means of a future attack from being fully developed |

Table 6.1

6.2 The Threat of Force – Purposes

Introduction

Force and the threat of force have been employed throughout human history. They have been used to secure certain objectives that were viewed as desirable, and to remove threats that were viewed as undesirable. Whether a case of the former or the latter, force has generally been viewed as a means by which the security and prestige of a nation or other political entity can be increased.

In the traditional Realist conception of international society as an anarchical arena, the use of force or the threat of force is seen as a quality that is inherent in the environment; indeed, the use and threat of force has uses in times of peace and in times of conflict.⁴⁴⁹ The potential and use of military force is the implementation of military power, that every country possesses to a greater or lesser degree. As most states find it advantageous to achieve their objectives without the cost and risk of war if possible, the threat of force is employed more often than the physical use of force by states.⁴⁵⁰ States may overtly threaten to employ force under certain circumstances, if for example another state takes or fails to take certain actions. However, the threat of force is also present in much more subtle expressions and communications. The ability of states to employ force may be understood as the "unstated but explicit" threat of force; this potential for action is implicit and can be communicated through the statements of politicians and negotiations of diplomats, although it is extremely difficult to calculate

⁴⁴⁹ Robert J. Art, "The Fungibility of Force," in *The Use of Force: Military Power and International Politics*, ed. Robert J. Art and Kenneth Neal Waltz (Lanham, MD; Oxford: Rowman & Littlefield, 2004), 3.

⁴⁵⁰ Ibid.

the degree of its influence on any particular policy decision or agreed compromise.⁴⁵¹

Force assumes many forms. In those instances when *military* force has been used, scholars have identified different categories and methods of conflict. For example, one may distinguish between: geographical wars, be they primarily inter-state, civil, internal, or internationalized; programmatic wars, be they in support of liberation, resistance, revolutionary or separatist movements, or preemptive in character; unequal wars, such as when a hegemonic power imposes its will on a much weaker nation; and wars that are defined best by their methodologies, such as guerilla wars.⁴⁵²

States may be unable to entirely control the forces they unleash during times of conflict. However, the monopoly that the state holds on the legitimate use of force creates stability and sets true government apart from warlordism or criminal activity.⁴⁵³ In fact, states serve as the necessary organizations of political community that make efforts to limit or outlaw war possible; this is partly why it is sometimes difficult to define and manage non-state entities such as sub-state insurgent groups and civilians.⁴⁵⁴

It should be stressed that historically, force has been used not just for aggrandizement, but to safeguard the existence of a community or people. Nations have always been at least partially prone to war as a response to threats and to ensure their survival.⁴⁵⁵ States also define themselves by their relations to other states, and use force and the threat of force to mark their borders.⁴⁵⁶ Of course, it has long been recognized that a prime factor

⁴⁵¹ Ibid., 4.

⁴⁵² Ingrid Detter, *The Law of War*, 2nd ed. (New York: Cambridge University Press, 2000) 38-61.

⁴⁵³ Art, "The Fungibility of Force," 5.

⁴⁵⁴ Michael Eliot Howard, ed., *Restraints on War: Studies in the Limitation of Armed Conflict* (Oxford; New York: Oxford University Press, 1979) 13.

⁴⁵⁵ Michael Eliot Howard, *The Invention of Peace and the Reinvention of War*, Rev. and extended ed. (London: Profile, 2002) 8.

⁴⁵⁶ Michael Eliot Howard, *War and the Nation State: An Inaugural Lecture Delivered before the University of Oxford on 18 November 1977* (Oxford: Clarendon Press, 1978) 8.

at play is one of perception. In his classic account of the Peloponnesian War, Thucydides recounts his judgment about the true cause of the war. This was that Athens' growing power threatened Sparta, and prompted them to begin the war in order to protect themselves.⁴⁵⁷ Similarly, an increasingly powerful Germany threatened Britain and contributed to the outbreak of the First World War.⁴⁵⁸ Sometimes the perception that survival is at stake has been enough to start wars; indeed, this is the shadow under which nuclear deterrence was said to have kept the peace during the Cold War. Perception also plays a part in the escalation of the use of force once hostilities have begun.⁴⁵⁹

Nor has the use of force been consistently viewed as regrettable, or allowed only in the last resort. Until the 19th century, war was generally considered to be an inevitable, and normal, feature of society and the affairs between nations; efforts focused on how to limit its worst or most repugnant aspects.⁴⁶⁰ Indeed, many thinkers held that war was a virtue, and a method by which nations struggled against each other in order to evolve to a higher level.⁴⁶¹

Accessing Resources and Removing Threats

Force has been used to gain ownership of land and control over geographic access. It has also been used to extract treasure and valuable commodities from other peoples and places. Force has similarly been used to secure access to natural resources, and to

⁴⁵⁷ Simon Hornblower, *A Commentary on Thucydides*, 2 vols., vol. 1 (Oxford: Clarendon Press, 1991) 64-65. Hornblower points out that some analysts believe this judgment to be faulty and biased.

⁴⁵⁸ Nye, *The Paradox of American Power* 7.

⁴⁵⁹ Michael Walzer, *Just and Unjust Wars: A Moral Argument with Historical Illustrations*, 2nd ed. (New York: Basic Books, 1992) 23.

⁴⁶⁰ Howard, ed., *Restraints on War* 8.

⁴⁶¹ Howard, *War and the Nation State* 9-10. Howard points out that Marx adapted this thinking, substituting conflict between classes for conflict between nations.

establish ownership over them. This can be a reinforcing spiral, with force being used to secure resources, and resources leading to increased or maintained power and influence: "... although resources alone do not spell power, they are a basic part of the overall equation that leads to influence."⁴⁶² The more resources possessed, the greater the number of states that can potentially be controlled or influenced, and the greater the variety of issues and behaviors that can be influenced.⁴⁶³

Signaling Intent and Proclaiming Values

The use of force is often the execution of policy; at other times, it may be useful to think of force as being a part of, rather than the sum of, that execution. The overarching purpose of force is to facilitate the attainment of policy goals.⁴⁶⁴ That facilitation may also involve utilizing force to signal intent or proclaim values.

In order to be credible, force must be physically available to be used for signaling purposes, as it must for others. If force is not available, the costs of acquiring it must be considered. When considering whether to employ coercive means, the availability of force stands as a primary factor in the calculus of states: "Of course military force isn't

⁴⁶² Rothgeb, *Defining Power* 192.

⁴⁶³ *Ibid.* 117.

⁴⁶⁴ Here Clausewitz's maxim that "war is a mere continuation of policy by other means" is in view. For even the most reprehensible acts of military force are meant to serve a policy; even genocide has a programmatic objective of exterminating an entire group of people, as repugnant as that is. As Clausewitz stated, "for the political design is the object, while war is the means, and the means can never be thought of apart from the object". See Carl von Clausewitz, *On War* (Washington,: Infantry Journal Press, 1950) 16. Yet it is also important to remember that the object and the means influence each other; the political objective may constrain the use of military force, and military developments during a campaign may cause a revision of the political objective. Indeed, this is the principle relied upon by weaker actors in asymmetric conflicts who have no hope of militarily defeating their stronger opponent in open battle. Rather, they hope that their infliction of damage on the stronger power will lead it to change or abandon its political objective. As one scholar put it, in such situations, "politics may become the continuation of war by other means". See Andrew Mack, "Why Big Nations Lose Small Wars: The Politics of Asymmetric Conflict," *World Politics* 27, no. 2 (1975): 179. The ends and the means each influence the other, but when force is used, it is used in pursuit of some objective.

always used just because it's there, but if it isn't there, it can't be used".⁴⁶⁵ Indeed, the availability of force is also a factor in public acceptance of policy. If a sufficient number of troops and an adequate stockpile of equipment is maintained, a public may be more accepting of their government's use of force than if a rapid buildup of equipment disrupts the economy, or if troop call-ups of one sort or another are required for particular action.⁴⁶⁶ Technological advancements have made it possible to tailor military action to the policies of national leaders, but it has not become easier to formulate and articulate those policies.⁴⁶⁷ The more articulated the policy, the more closely tailored the use of force can be; the less articulated the policy, the less the utility of force.⁴⁶⁸

Policy objectives may be met by signaling intent or commitment through displays of capability or positioning forces that fall short of physical use of force. When such signaling is employed, the intended audience and purpose may be either internal or external. Signaling may emphasize a state's foreign policy. This is sometimes done with the hope of changing the behavior of other states or national leaders. For example, the pronouncement of the "Carter Doctrine" was bolstered by the deployment of US naval forces in proximity of Middle Eastern oil resources.⁴⁶⁹

On-going deployments or exercises may serve a similar function. Regular troop deployments and the maintenance of military bases are also effective in sending certain

⁴⁶⁵ Adam Yarmolinsky, "American Foreign Policy and the Decision to Intervene," *Journal of International Affairs* (JIA). *Intervention and World Politics*. 1968. 22(2):165-302. 22, no. 2 (1968): 233.

⁴⁶⁶ *Ibid.*, *passim*, uses the example of US public acceptance of an increase in Vietnam involvement in 1965, and argues that a significant contributing factor was that military readiness had already been boosted, eliminating the need for large numbers of reserves to be activated.

⁴⁶⁷ Calhoun, *Uses of Force* 137. Calhoun cites the US experience in Vietnam as the classic case of abuse of force; force was used without clear policy objectives.

⁴⁶⁸ *Ibid.* Calhoun likens the use of force without clear policy objectives to "using a sledgehammer to tune a grand piano".

⁴⁶⁹ Amitav Acharya, *US Military Strategy in the Gulf* (London: Routledge, 1989) 49-50.

signals.⁴⁷⁰ Like the potential effectiveness of standing militaries, it is often quite difficult to gauge the efficacy of such regular deployments. This is because these ongoing operations may prevent an unknown threat from ever arising; likewise, a threat may arise in spite of such activities, and would have done so regardless of them.

In contrast to ongoing deployments, some activities involve the targeted use of force in support of a discrete objective. It may be possible to ascertain with more confidence the effectiveness of these discrete displays of force.⁴⁷¹ Blechman and Kaplan published an empirical study of such displays made by the US up to 1978, and explored this possibility. A significant conclusion of the research was that such uses of force were generally effective in attaining, or helping to attain, policy objectives. However, this only held in the short-term. So the discrete display of force may be most effective in delaying a certain action being taken by another state, or in buying time for other diplomacy or maneuverings to take place. Further, sometimes a show of force has no effect when the actors involved do not believe that the state making a display of force would really use it.⁴⁷² This points out the importance of perception; that is, whether others perceive a state's commitment to use force as credible. Israeli consistency is notable in this regard.

Another interesting conclusion of the study emphasized the importance of effective supplemental communication accompanying the displays of military force. The study ends by urging policymakers to make their intention to use force as clear as possible.

For example, if policymakers know they will act militarily in a certain circumstance,

⁴⁷⁰ Barry M. Blechman and Stephen S. Kaplan, *Force without War: U.S. Armed Forces as a Political Instrument* (Washington: Brookings Institution, 1978).

⁴⁷¹ "Displays of force" should be understood as the maneuvering, permanent stationing, or actual utilization of military forces; as such, they are a display of one distinct kind of power.

⁴⁷² Blechman and Kaplan, *Force without War* 517-518. In the military conflict between India and Pakistan in 1971, the US expressed its support for Pakistan; however since neither nation believed the US would really use military force, the US dispatch of a carrier group to the Indian Ocean did little to influence developments.

and if that circumstance appears likely to occur in the foreseeable future, they should alert the states involved to express their intention of acting. It may be far more dangerous to communicate ambiguity and allow potential problems to develop, partly due to others believing that a state is not really committed to acting forcefully to stop certain actions from being taken.⁴⁷³

Therefore if a state truly intends to use force, this commitment should be made as clear as possible. Yet ambiguity also has uses. Saying an action would be "taken seriously", or have "serious consequences", can warn of a response while keeping options open as to what that response will be. When a state enunciates a broad national strategy or disposition rather than responding to a particular event, it is only natural for it to avoid making statements that will limit its freedom of action in future crises. So a balance must be sought: the more explicit the communication, the less chance of misunderstanding. Yet, the more explicit a state is about the actions it will take, the more it limits its own policy options.

All courses of action and inaction, explicit threats and ambiguous threats, entail a degree of risk. It is these risks and attendant opportunities that policymakers deal with as a matter of course. The balance to be sought between clarity of communication and ambiguity of commitment is perhaps best summed up by the following formulation: once policymakers have determined force will be used if a certain threshold is crossed, it is best to communicate that intent as clearly and as expeditiously as possible. If that

⁴⁷³ For example, apparent Argentine disbelief that the UK was prepared to retake the Falklands by force in 1982 may have made violent conflict inevitable in that case. See Peter Vaughan Barnett, "British Strategy in the Falklands War," *Journal of the Singapore Armed Forces* 26, no. 1 (2000). Interestingly, Blechman and Kaplan also note that in terms of nuclear capability, the US has sent signals through the stationing or alert level of strategic nuclear forces, just as it has through conventional forces. However, most of these incidents occurred in the 15 years following the end of World War II when the US held a more dominant strategic nuclear position over the USSR. Just as permanent ground troops like those stationed in Europe during the Cold War might send a more powerful signal than discreet uses of force, so the permanent stationing of nuclear forces might be more important than discreet uses of them. See Blechman and Kaplan, *Force without War* 47-49. See also 534.

determination has not been made, there may be little to do but fall back on the deterrent value of an ambiguous threat or statement of disposition.

Influencing Behavior

While not as contentious as defining the concept of "power", analysts do not utilize identical definitions of "force". A number of researchers have drawn the distinction between threatened or very limited use of force, and more extensive, ongoing, uses of force. Still, some general defining characteristics of force are shared by numerous scholars and they will be adopted here.

As there are different types of power, of which force is one, there are different scales or degrees of the use of force. The energy required to destroy a single vehicle with an unmanned drone, to launch cruise missiles against larger installations, to carry out a bombing campaign that is almost completely reliant on air power, or to engage an entire nation-state's military in an invasion, can all be differentiated. Degrees of force can be distinguished even if, strictly speaking, they do not lie along a seamless continuum.

Art differentiates between "physical use of force" and "peaceful use of force".⁴⁷⁴ For broadly similar purposes, Schelling speaks of "brute force" and "coercion". Calhoun has identified five applications in his formulation of the use of force. They are the use of force for: protection, retribution, solution, introduction, and association. However, in all cases the use of force entails "the application of armed power for a specific, definitive

⁴⁷⁴ Robert J. Art, "When Will Force Be Used?," in *International Politics: Anarchy, Force, Political Economy, and Decision-Making*, ed. Robert J. Art and Robert Jervis (Boston: Little, Brown and Co., 1985), 208-216.

purpose".⁴⁷⁵

Force is useful in creating the space for other facets of power to be used, and in creating opportunities for other tools of force or other courses of action to be pursued. One may think of force as a type of power that is sometimes used and sometimes threatened; alternatively, the actual implementation of force may be conceptualized as one type of power, and the threat of force as another. Calhoun calls the former "force as power" and the latter "military power". In either conception, the implementation of force can create the space for other forms of power to be brought to bear, such as diplomatic power, economic power, moral power, and even the threat of more force.⁴⁷⁶

6.3 The Threat of Force Inherent in Deterrence

The field of study dealing with nuclear deterrence is a vast one. While fascinating, it is simply too enormous to be examined in any detail in the space available here. Further the aim of this chapter is to examine the threat of force overall, rather than the particular threats posed by strategic or tactical nuclear weapons (or the logic behind nuclear policies and postures) that the literature on nuclear deterrence is primarily concerned with addressing. The issue at hand is the threat of conventional force inherent in conventional deterrence. While the term "deterrence" has become encumbered with terminology of nuclear strategy, it retains its more traditional meaning as a basic way that states attempt to protect themselves.

⁴⁷⁵ Calhoun, *Uses of Force* 9.

⁴⁷⁶ Calhoun, *Power and Principle*. Elsewhere, Calhoun points out that Wilson did not view force as a solution in itself, and allows that even the use of "force for solution" that is part of his formulation only provides space or opportunity for other types of diplomatic and economic power to be used. See Calhoun, *Uses of Force* 141.

Conventional deterrence has always existed. Displaying military power through military exercises or limited use of military capability has utility, and not just in intimidating others to acquiesce to a state's wishes – military parades have symbolic power not lost on opposition forces in repressive regimes, nor on the militaries of other states. A state's conventional forces may cause others to doubt their ability to successfully fight and win in a military conflict, or to fear the price of engagement.⁴⁷⁷

The notion of deterrence in interstate relations existed before the advent of nuclear weapons. It is true that technological advances have altered the *amount* of damage that can be inflicted on an enemy, and the *speed* with which it can be inflicted. However, the implications of these facts had begun to be recognized and pondered with the emergence of air power, before the advent of nuclear weapons. Because air power brought about a significant change in the *scale* of destruction that could be inflicted on a country's population and infrastructure, the concept of deterrence required a new and more complex set of calculations.⁴⁷⁸

With the emergence of air power in the 20th century, statesmen and military planners began to think in new ways about their ability to deter other nations from attacking through a credible threat of inflicting considerable pain on an opponent's societal infrastructure and the civilian population. The degree to which conventional deterrence was eclipsed in the age of nuclear weapons is debatable, not least since the continued importance of conventional deterrence has been attested to by successive US administrations.⁴⁷⁹

⁴⁷⁷ Perhaps there is little doubt that a military attack will be successful, such as the annexation of Kuwait in 1990. It is then that the consequences of taking such an action might deter a state from doing so.

⁴⁷⁸ George H. Quester, *Deterrence before Hiroshima: The Airpower Background of Modern Strategy* (New Brunswick, NJ: Transaction Books, 1986).

⁴⁷⁹ In fact, the first three NSS documents produced after the mandated requirement, in the second Reagan administration and George H.W. Bush administration, contained discrete sections dealing with

It may be helpful to think about deterrence in terms of the formulation made by Blechman and Kaplan. Uses of force may be seen as falling into four categories of two broad types: coercion and support. Table 6.2 illustrates these categories. Coercion involves deterring or compelling states to take or refrain from taking certain actions. Support involves assuring or inducing states to embark on a certain course of action, or continue on a course already taken. The reinforcement of existing behavior is accomplished through assuring or deterring. The changing of behavior is accomplished through inducing or compelling.⁴⁸⁰ Deterrence may be accomplished by denial or punishment; that is, by communicating to the target that its intended action will be unsuccessful, or that its intended action will result in a costly punishment.⁴⁸¹

| | <u>Changing</u> behavior | <u>Reinforcing</u> behavior |
|-------------------------------------|-----------------------------|-----------------------------|
| <u>Coercing</u> (antagonists) | <i>Compelling</i> | <i>Deterring</i> |
| <u>Supporting</u> (non-antagonists) | <i>Inducing</i> | <i>Assuring</i> |

Table 6.2 (Adapted from Blechman and Kaplan, *Force Without War*)

Blechman and Kaplan's formulation is in line with the term "coercion" as mentioned above in the section defining terms (see Table 6.1). Coercion may involve either

"conventional deterrence". See United States. President Ronald Reagan (1981-1989), "National Security Strategy of the United States," (Washington, DC: The White House, 1987), 26. Also United States. President Ronald Reagan (1981-1989), "National Security Strategy of the United States," 18. See also United States. President George H.W. Bush (1989-1993), "National Security Strategy of the United States," 25. It is notable that these previous administrations publicly articulated that they viewed nuclear and conventional deterrence as unique for planning and policy purposes.

⁴⁸⁰ Blechman and Kaplan, *Force without War* 71-74.

⁴⁸¹ Rothgeb, *Defining Power* 140.

compelling or deterring. When the threat of force is used to influence another's behavior, coercive diplomacy has some similarity to deterrence. The two differ in that coercive diplomacy uses the possibility that force will be used to compel a state to change its behavior, for example to withdraw its military from a certain area (such as when the Soviet Union withdrew its missiles during the Cuban Missile Crisis). Deterrence uses the possibility that force will be used to prevent a state from taking a new course of action (such as when an increased show of Allied force helped to prevent any East German or Soviet moves to take sole control of the city during the Berlin Crisis of 1961).⁴⁸²

The threat of force, and sometimes the use of force, is often utilized as a way of deterring a nation from certain action, or coercing it to take certain action. It is often utilized with the aim of avoiding war rather than instigating war. The use of force may be threatened in order to prevent a broader conflict from developing. However, the threat of force itself may sometimes be illegal. The examination of such a threat of force certainly brings up questions of law and right authority.⁴⁸³

6.4 The Threat of Force Inherent in Preemption

The use of preemption as a form of the application of force will now be considered. The legal issues that attend preemption – that is, preemptive self-defense – will be discussed in more detail below in Chapter Eight which deals directly with international law. While this section will serve as a foundation for the later discussion, its primary purpose is to

⁴⁸² Blechman and Kaplan, *Force without War* 71.

⁴⁸³ These questions of authority concerning the threat and use of force essentially involve many of the issues present in the humanitarian intervention debate.

explore how "preemption" is understood, and to consider how it relates to the threat of force.

While the meaning of preemption might seem self-evident, this consideration is necessary given the prominence that preemption receives in the 2002 NSS. That Strategy argues that, in contemporary circumstances, deterrence is of less utility than in the past and preemption is not only of greater utility, but is approaching necessity, at least for the US.⁴⁸⁴ However it is important to acknowledge that the Strategy states that the US "will not use force in all cases to preempt emerging threats"; further, the document asserts that deterrence of "threats against U.S. interests" remains one of the main missions of the US military.⁴⁸⁵

Although far from universal, there is a significant level of agreement that a state may justifiably act to defend itself before the first blow against it lands.⁴⁸⁶ This agreement, such as it is, rests upon the understanding that an enemy's attack is imminent: that is, that there is clear evidence that it is going to occur, and that an attack is "in motion" as it were, even if weapons have not yet been fired or troops have not yet crossed a border.

Yet this scenario is perhaps idealized: knowledge – intelligence – is rarely if ever incontrovertible, and its quality must be judged. As one moves away from this near-perfect depiction, agreement about how "preemption" may be defined, and whether it is legal, becomes ambiguous. How certain must a state be that an antagonist is planning to

⁴⁸⁴ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 15.

⁴⁸⁵ Ibid., 15, 29.

⁴⁸⁶ Thomas M. Franck, *Recourse to Force: State Action against Threats and Armed Attacks*, Hersch Lauterpacht Memorial Lectures (Cambridge; New York, NY: Cambridge University Press, 2002) 98. The International Court of Justice seems to have recognized this as well, as it was unable to rule out the legality of the first-use of nuclear weapons, if the very existence of a state was threatened. See International Court of Justice, "Legality of the Threat or Use of Nuclear Weapons: Advisory Opinion of 8 July," (1996).

attack? How pressing must a threat be for one to define it as "imminent"? How remote must the possibility be that an enemy will stay the attack at the last moment? Questions such as these, and the uncertain answers they may elicit, illustrate the problem of defining the bounds of legitimate preemption in such a way that is unambiguous and widely accepted.

It is possible that that the threat of preemption can in fact deter. For an announced policy favoring preemption to have a deterrent effect, there must be a perception that the commitment to use preemptive force is credible (just as with deterrence, there must be a perception that the commitment and ability to retaliate is credible). Such perceptions can be quite subjective, which makes it hard to discern in advance if announcing a policy of deterrence or a policy of preemption will actually have the deterrent effect that is hoped.⁴⁸⁷

The 2002 NSS presents preemption as a clear alternative to deterrence. The purpose of the policy is to remove threats as they are developing. And, by the simple fact that the policy is announced – because public pronouncements are after all communicative – a *policy* of preemption has a potential deterrent effect, whether intended or not. This deterrent effect may constrain the initiative of states who might find themselves the target of preventive attack as a consequence of their ambitions.

The Bush administration makes the case that deterrence is of little utility against sub-state (terrorist) groups and states that operate outside international norms and expectations ("rogue" states).⁴⁸⁸ The argument rests on three points. First, the dictatorial

⁴⁸⁷ Quester, *Deterrence before Hiroshima: The Airpower Background of Modern Strategy* 175-178.

⁴⁸⁸ The 2002 NSS also argues that the intersection of the two, namely the possibility of rogue states sponsoring terrorist groups, gives additional urgency to the problem. See United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 13-15.

leaders of rogue states are more likely to take risks and so are less susceptible to deterrence than other governments constrained by their own politics and international law. Second, sub-state terrorist groups are more likely to engage in disproportionate and extreme behavior, such as suicide attacks or the willingness to inflict extensive damage on civilians. Third, sub-state terrorist groups are much more difficult to find and target than states, and so are viewed as less susceptible to deterrence than states.

The further one moves away from imminence – that is, the further into the future, or the less concrete, a potential attack is deemed to be – the less certain one can be that it will actually occur as predicted. By acting preventatively, a state may be able to deal with a growing threat more effectively and safely. However this comes at the cost of dealing with a threat that may wane of its own accord. When acting preventatively, a state incurs the financial cost of engaging its military, and the diplomatic cost of instigating violence against a "growing threat" rather than responding to the imminent use of violence against itself.

While the 2002 NSS attempts to draw on the legitimacy of legal opinion validating preemptive self-defense, it is vital to not gloss over the difference between preemption and prevention. The US Department of Defense itself defines a "preemptive attack" as an "attack initiated on the basis of incontrovertible evidence that an enemy attack is imminent". "Preventive war" is defined as a "war initiated in the belief that military conflict, while not imminent, is inevitable, and that to delay would involve greater risk".⁴⁸⁹ The 2002 NSS is quite explicit that it seeks to adapt the concept of preemption by adapting the understanding of "imminence".⁴⁹⁰ These adaptations are novel ones, and

⁴⁸⁹ US Department of Defense, US Department of Defense Dictionary of Military and Associated Terms 2001 [cited 12 Feb 2007]; available from <http://www.dtic.mil/doctrine/jel/doddict/>.

⁴⁹⁰ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 15. The updated concept of "imminence" was viewed as central to the document's

as applied, "preemption" bears much greater resemblance to the traditional understanding of preventive war than to the traditional understanding of preemptive self-defense.

6.5 The Threat of Force – Limits

Capacity to Use Force

The capacity of a state to credibly threaten force, or actually use force, is limited by a number of variables. Some of these variables are imposed upon states. Perhaps the most basic potential limitation is the lack of practical capacity. When a state lacks the wherewithal to act forcefully – or due to this, lacks the credibility to usefully threaten the use of force – it can be due to a number of possible reasons. For example, the reason may be economic – the state may lack the resources to purchase military hardware and pay the salaries of standing troops.

At other times, the reason may be societal, and largely self-imposed. The state may have chosen to refrain from increasing its military power as an expression of its values, or because other issues are deemed more worthy of government financial support. For example, Japan's constitution effectively forbids it from developing offensive military forces. Japan's constitution was of course largely formulated by the US in the aftermath of World War II. However, the constitution has been societally accepted, and limiting

treatment of the preemptive use of force by at least one of the officials involved in the internal review of the Strategy before its publication: "I think the more important change here [in NSS 2002] is the discussion of how 'imminence' is cast in some broader terms." Hoehn.

its military to defensive capabilities has been the policy of Japan since the constitution's adoption.⁴⁹¹

Alternatively, the capacity to use force may be limited by a lack of public support. Even a prosperous nation with the capacity to field military forces relies on some minimum segment of the population to endorse its military deployments and authority. This holds true even if such endorsement is at the minimum level of attracting a sufficient number of people who are willing to enlist in the military or willing to abide by a government's conscription policy.

Constraints of this sort may be thought of as practical limitations, but are not the sum of such limitations. While the capacity to field military forces is essential to using force as a coercive tool of power, the capacity to communicate effectively and credibly can also limit the exercise or effectiveness of the use of force. The capacity of a nation's leadership or elite to come to agreement on whether and how to use force is also crucial, even if military capacity, good communication, and high credibility are all present. As mentioned in the section above dealing with "signaling", the communication of intent is sometimes the aim of a use of force, or of a threat to use force. Ineffective communication is a very real limitation on the ability of the threat of force to effect desired behavior changes in a target state. Misunderstandings between adversaries result from poor communication, the inability to communicate due to logistical reasons, and

⁴⁹¹ Harrison M. Holland, *Japan Challenges America: Managing an Alliance in Crisis* (Boulder: Westview Press, 1992) 103. There has been increasing discussion about the possibility of altering the parameters of Japan's constitution to enable the country to more easily contribute militarily to multilateral actions. The issue recently came to the fore when a high court in Japan ruled that the government's use of air force personnel in Iraq, in support of US forces there, violates Japan's constitution. See Yoko Kubota and Isabel Reynolds, "Court Says Japan's Iraq Operation Unconstitutional," *New York Times*, 18 Apr 2008.

the failure to communicate due to hubris.⁴⁹² When communicating threats, potential difficulties due to cross-cultural barriers also exist.⁴⁹³

Related to communication is credibility. Coercion through force hinges on threatened violence being applied or withheld. To modify the behavior of others, it is important that they believe that by adopting a certain course of action they will avoid damage. If a state believes it will suffer damage regardless, there is little incentive to modify behavior.⁴⁹⁴ Therefore, the credibility of a threat is affected by a state's willingness and ability to cause hurt, and the precision with which it communicates this.⁴⁹⁵

Credibility is no less affected by the state's nonmilitary capacity. If relying heavily or solely on military force, an actor's influence or control will extend "only as far as its physical reach allows".⁴⁹⁶ Not only is influence limited in a very physical sense when wielding military force, but also by the kinds of objectives that military force can reasonably be expected to attain: "[a] nation that wants others to adopt its values cannot impose them solely through conquest."⁴⁹⁷

⁴⁹² Rothgeb, *Defining Power* 117.

⁴⁹³ *Ibid.* 100.

⁴⁹⁴ Schelling, "The Diplomacy of Violence," 173.

⁴⁹⁵ *Ibid.*, 172.

⁴⁹⁶ Rothgeb, *Defining Power* 109.

⁴⁹⁷ Robert J. Art and Robert Jervis, eds., *International Politics: Anarchy, Force, Political Economy, and Decision-Making*, 2nd ed. (Boston: Little, Brown and Co., 1985) 147.

Related Limiting Factors

a) Possible Reactions and Unintended Consequences

Other practical limitations on the use of force include the unpredictability of reactions and unintended consequences. Use of force does not necessarily indicate that it is being used shrewdly for clearly articulated political objectives.⁴⁹⁸ The threat and use of force are not always the result of rational calculation of interests and costs, but sometimes result from "frustrations" and "notions of glory, honor, and prestige".⁴⁹⁹ While historical examples exist of the dangers of refraining from using force, examples also exist of problems that were unresolved or exacerbated by using force.⁵⁰⁰

Whether used or threatened, force has the possibility of escalating out of control.⁵⁰¹ One worrying point that has been made is that a target state may choose to use unconventional weapons in response to a preemptive military action that is aimed at eliminating WMD. At that point, the preemptive state may feel the need to use WMD itself, or to demonstrate that use of unconventional weapons against it is "intolerable". It is not a given that predominance in conventional forces will automatically preclude escalation to an unconventional level: "...conventional options are unlikely to eliminate nuclear [or other WMD] dilemmas."⁵⁰²

One can imagine that in such a scenario, questions of moral acceptability and political

⁴⁹⁸ Schelling, "The Diplomacy of Violence," 175.

⁴⁹⁹ Rothgeb, *Defining Power* 99.

⁵⁰⁰ Craig and George, *Force and Statecraft* 258.

⁵⁰¹ Schelling, "The Diplomacy of Violence," 174.

⁵⁰² Brad Roberts, "NBC-Armed Rogues: Is There a Moral Case for Preemption?," in *Close Calls: Intervention, Terrorism, Missile Defense, and 'Just War' Today*, ed. Elliott Abrams (Washington, DC: Ethics and Public Policy Center, 1998), 96.

feasibility – and international ramifications – might be subordinated to the pressure or momentum of events. Even the *threat* of using unconventional forces against weaker countries has as great, or greater, possibility of driving them closer to other adversaries, as influencing them effectively.⁵⁰³ The threat of overwhelming conventional force may have just the same effect. For example, the US invasions of Afghanistan and Iraq demonstrated the considerable conventional military capability of the US, and have resulted in a large number of US forces stationed in countries bordering Iran. This use of force and the continuing military presence have most likely only increased Iranian desire to acquire a nuclear weapon capability in the future.⁵⁰⁴

Further, use of force by itself, as a coercive tool, has limited effectiveness: threats and use of force produce anxiety and antagonism in targets, which lead to unwillingness to modify behavior or to unintended and unwanted new behaviors.⁵⁰⁵ The use of force can produce an uncooperative attitude in the target (note the political ineffectiveness of aerial bombardments in World War II). Even if the target state cooperates, it may be only minimally, with targets only incrementally changing unwanted behavior rather than comprehensively changing to desired behavior (Iraq's behavior during the 1990s, after the imposition of sanctions and no-fly zones, illustrates this well). In such circumstances, continuing or increasing force must be applied to achieve continued cooperation.⁵⁰⁶ Regardless of the capacity and credibility to use force, a target state's attitude is important, since a defiant target can limit an actor's choices to giving up its goal passively, or acting punitively – neither of which necessarily achieve the goal sought.⁵⁰⁷ Such was the case in 1998 when the US and UK decided to undertake a

⁵⁰³ Keohane and Nye, *Power and Interdependence* 24.

⁵⁰⁴ Paul Rogers, "Iran: Consequences of a War (Oxford Research Group Briefing Paper)," no. Feb (2006): 5-6.

⁵⁰⁵ Rothgeb, *Defining Power* 109.

⁵⁰⁶ *Ibid.* 117, 110.

⁵⁰⁷ *Ibid.* 194.

bombing campaign against Iraq known as Operation Desert Fox. The operation was in response to Iraq's recalcitrance in complying with the UN arms inspection regime. While the legality of the bombing campaign is disputed, it seems fairly clear that the operation did not achieve the goal of bringing Iraq around to unconditional acceptance of UN monitoring.⁵⁰⁸

b) Interdependence with Other States in the International Community

Realist approaches have tended to center on military and security concerns, and have downplayed the development of interdependence, such as economic factors and soft power.⁵⁰⁹ Realists assert that states are the predominant actors in international politics, that states "act as coherent units", that force is "the most effective means of wielding power", and that the politics dealing with military and security concerns are of more importance than the politics dealing with economic and social concerns.⁵¹⁰ Arguments for the desirability of relying on the use of force as a coercive tool rely on "the traditional conception of the international system" as a premise; such arguments may appear strong, but are questionable.⁵¹¹

The role force plays is quite reduced when considering nations who view the possibility of war between them as extremely low; also, force is often not useful in achieving goals involving economic welfare or environmental stability.⁵¹² Likewise, many contentious contemporary issues are not easily addressed by military means. Because of interdependence and industrialization, no one state can reasonably expect to control all

⁵⁰⁸ Marc Weller, "The US, Iraq and the Use of Force in a Unipolar World," *Survival* 41, no. 4 (2000): 97.

⁵⁰⁹ Keohane and Nye, *Power and Interdependence* 4.

⁵¹⁰ *Ibid.* 20.

⁵¹¹ Rothgeb, *Defining Power* 97.

⁵¹² Keohane and Nye, *Power and Interdependence* 23-24.

of its needed resources through military conquest.⁵¹³

The idea of interdependent relationships that lead to synergistic strengths and subtle but powerful constraints on action has been explored by Keohane and Nye. Complex interdependence and realism are both "ideal types", and so while offering very different views of the world, neither wholly encompasses the reality of international politics; rather, "[m]ost situations will fall somewhere between these two extremes."⁵¹⁴ Complex interdependence challenges key Realist assumptions, assuming as it does that non-state actors participate directly in international politics, that military, security, economic, and social concerns can not be hierarchically ranked in importance, and that force is often "an ineffective instrument of policy".⁵¹⁵

c) Context

The utility of military power does not always equate to its actual use. Military power can be useful though never used (for example when the mere existence or movement of military forces achieves a deterrent or communicative effect). Conversely, the actual use of military power can actually be counterproductive (for example when the use of military force results in driving an opponent closer to other adversaries, or has unintended negative consequences). Then too, there are some ends that are difficult to accomplish through military means.

⁵¹³ Rothgeb, *Defining Power* 160.

⁵¹⁴ Keohane and Nye, *Power and Interdependence* 21.

⁵¹⁵ *Ibid.* See also 24. However the importance of force is acknowledged even by those who do not view it as fundamental. Keohane and Nye allow that even when "complex interdependence" as a type comes close to reality, it must be realized that drastic changes could occur that would elevate force to a place of prominence – and that even allies can be influenced by military implements, for example when they are benefiting from military protection of another. Military power can sometimes be translated to political influence, for example when force is used as a deterrent. Therefore the US could sometimes use the fact that it was using its military strength to deter Soviet aggression against European states as leverage when negotiating with those European states, even if the negotiations were not directly related to military matters.

One should not view military power as having more political utility than it really does; it is a blunt instrument, a tool of last resort, and is of limited use in encouraging loyalty or changing underlying attitudes.⁵¹⁶ Then too, military means that are identified through an imperfect political process may be flawed or inconsistent with other policy goals of a country's leadership. The results of game theory and deterrence theory, both of which are often at play in proposed uses of force, rely on an assumption of "rational behavior", which is best thought of as a "bench mark for further approximation to reality".⁵¹⁷ The non-rational can take many forms: inconsistent values and decisionmaking, flawed communications, miscalculations, or the merging of opinions held by many individuals into a single perspective.⁵¹⁸

There are still other factors limiting the utility of force in achieving political ends. The use of force against "socially mobilized populations" is of limited usefulness, as shown by the US experience in Vietnam, and the failure of colonialism. Using force to address one issue with a state may damage other facets of the relationship held with that same state.⁵¹⁹ Further, in liberal democracies, it is difficult to maintain public support for prolonged military engagements.

If the use of force is sometimes crucial, so too is the restraint of its use, all the more so if an objective is to avoid costly or catastrophic war.⁵²⁰ Many contemporary adversaries

⁵¹⁶ Robert J. Art, "Nuclear Weapons and Military Power," in *International Politics: Anarchy, Force, Political Economy, and Decision-Making*, ed. Robert J. Art and Robert Jervis (Boston: Little, Brown and Co., 1985).

⁵¹⁷ Schelling, *The Strategy of Conflict* 16.

⁵¹⁸ *Ibid.*

⁵¹⁹ Keohane and Nye, *Power and Interdependence* 25.

⁵²⁰ Eliot A. Cohen, *Supreme Command: Soldiers, Statesmen, and Leadership in Wartime* (London: Free Press, 2002) 205. Cohen notes that the Cuban Missile Crisis in 1962 is often perceived as an example of this, although this interpretation is not universally agreed-upon.

are nonstate entities, and so are difficult to target.⁵²¹ The difficulty in locating and targeting the leadership of a group like al Qaeda is a prime example, and an issue that senior officials in the Bush administration apparently understood only too well.⁵²² While nation-states may be easier to target, the use of military force is of much more efficacy in deterring other parties from involving themselves in a region than in shaping politics within a region.⁵²³

Applicability of the Weinberger-Shultz Debate

A variety of limitations on the use of force also exist that are largely submitted to by states rather than imposed upon them. These limitations are submitted to because they are seen by the state to be in the best overall interest of the state, or because they are an expression of its values, in effect self-restraint that is in line with a perceived categorical imperative held by the citizenry or rulers by that state. Of course, a combination of the two – self-interest on the one hand, and the expression of deeply-held values on the other – is possible and even likely. These are both discernible in many debates concerning the wisdom of forceful action.

⁵²¹ Rothgeb, *Defining Power* 160.

⁵²² As Secretary of Defense Donald Rumsfeld put it, "We're dealing with enemies that can – turn inside our decision circles. They are – they don't have parliaments and bureaucracies and real estate to defend and interact with or to deal with or cope with, and they can do what they want. ... And it is an environment that is vastly more complex because of the fact that we have all of these new realities in terms of e-mails and video cameras and wire transfer." See US Department of Defense, Secretary of Defense Donald Rumsfeld Interviews with Mr. Bob Woodward – July 6 and 7, 2006 [News Transcript] 02 Oct 2006 [cited 18 Apr 2008]; available from <http://www.defenselink.mil/transcripts/transcript.aspx?transcriptid=3744>. Indeed, the difficulty in targeting non-state actors like al Qaeda was one reason Vice President Dick Cheney urged defining terrorism as broadly as possible after 11 September 2001. As reported by Bob Woodward, Cheney counseled, "'To the extent we define our task broadly,' Cheney said, 'including those who support terrorism, then we get at states. And it's easier to find them than it is to find bin Laden.'" See Bob Woodward, *Bush at War* (New York: Simon and Schuster, 2002) 43.

⁵²³ Edward Rhodes, *Presence, Prevention, and Persuasion: A Historical Analysis of Military Force and Political Influence* (Lanham, MD: Lexington Books, 2004) 404.

There was broad agreement among US policymakers during World War II that a total, national military effort was needed to defeat the Axis powers. However beginning with the Korean War, a tension surfaced among US policymakers regarding the limits of the applications of force, and this has persisted to the present day. Using the Korean War as an exemplar, on one side of the debate some essentially side with General MacArthur and contend that the US should either not intervene in a conflict at all or should fight all-out to win. Others broadly side with President Truman, and contend that in an era of nuclear weapons the US will probably have to intervene in conflicts from time to time and be flexible about limiting its objectives and tactics in order to avoid escalation.⁵²⁴

In more recent years, the tension central to many disagreements over whether and how to employ force is seen most clearly in what is sometimes known as the "Weinberger-Shultz" debate of the 1980s, although the issues grappled with by these two US statesmen preceded them and continue to confront policymakers. The enduring contentiousness is due to the fact that when considering the use of force, the stakes are generally high. As one scholar put it, "[s]uccess in the application of coercive diplomacy is not easily achieved. Disaster is always a single bad decision away."⁵²⁵ The possibility of flawed decisionmaking resulting in catastrophic failure attends any use of force, but this is heightened in an era of nuclear weapons and other WMD.

Then-Secretary of Defense Caspar Weinberger staked out his position in the debate in a list of principles stated in a November 1984 speech.⁵²⁶ These principles mostly focused on only using military force for matters vital to the US national interest, only when public and congressional support is present, and when constant reappraisal of the

⁵²⁴ Craig and George, *Force and Statecraft* 261-263.

⁵²⁵ *Ibid.* 199.

⁵²⁶ Caspar W. Weinberger, *The Uses of Military Power: Address Given at the National Press Club, Washington, DC on 28 Nov 1984* [cited 18 Dec 2008]; available from <http://www.airforce-magazine.com/MagazineArchive/Documents/2004/January%202004/0104keeperfull.pdf>.

objectives and composition of the force is carried out.⁵²⁷ Then-Secretary of State George Shultz essentially took the opposing view, and spoke vigorously against Weinberger's principles. Shultz saw them as limiting options available to leadership.⁵²⁸ The strictures outlined by Weinberger, and later Colin Powell, continue to be seen by some as a totally improper attempt (by the military) to dictate to the civilian leadership when and how they will be used in combat.⁵²⁹

It is notable that the policy of preemption announced in the 2002 NSS does not fall neatly into either side this debate. Those who favor Weinberger's principles might say that the US is broadly committing to using preemptive military force without ascertaining if the US has the will to fully commit to a total effort aimed at victory, and that it is impossible to gauge such willingness when announcing a preference for using military force in unknown future situations. Those holding the view of Shultz might perceive that the policy is favoring ongoing, intensive use of force without adequately taking into account the risks of escalation inherent in such a disposition, and without building in the flexibility to modify and limit objectives that might be necessary as the context changes and the situation develops.

⁵²⁷ Cohen, *Supreme Command* 217-219. The idea of applying "overwhelming force" when using US military force was later introduced by JCS Chairman Colin Powell, and reinforced the Weinberger principles. Tension is apparent between the just war criterion of proportionality and the use of overwhelming force. See Paul Gilbert, "Proportionality in the Conduct of War," *Journal of Military Ethics* 4, no. 2 (2005).

⁵²⁸ Cohen, *Supreme Command* 219.

⁵²⁹ *Ibid.* 216-217. See also the Appendix, "The Theory Of Civilian Control", for an interesting essay on the subject of civilian control of the US military. Overall, Cohen believes it is a mistake to try to starkly separate civilian leadership from military planning, and politics from military planning. He reviews four case studies (Lincoln, Clemenceau, Churchill, and Ben-Gurion) and views each as an exemplary wartime leader who was very directly involved in questioning, directing, and challenging the military.

Conclusion

11 September 2001 brought about a greatly heightened public determination that the US should use its power to increase its safety and security, with an emphasis on preventing similar attacks in the future. The question of how best to do this remains.⁵³⁰ For some, a divide between Western democracies and less-developed-countries (LDCs) – a divide that is projected to become ever greater if present trends continue – indicates a concomitant increased reliance on the use of force in the relations between the two groups, even as force becomes increasingly less apparent in the relations among the Western democracies themselves. This view is taken by those who argue that because the Western world has developed shared values, interests, and understandings, that maneuvering and the exercise of power between them usually takes the form of inducements or persuasion, and such coercion as is employed is usually "subtle" and "nonviolent".⁵³¹ With increasing interdependence comes increasing desire to influence those entities with which a state interacts; so interdependence does not obviate the exercise of power and influence, but may alter the techniques employed to do so.⁵³² LDCs lack equivalent commonly shared values, interests, and understandings, making coercion in general – and the use of force in particular – much more prominent in the interactions between LDCs themselves, and between LDCs and the developed world.⁵³³

However, if US goals include changing the character of a large portion of the world, the long-term efficacy of coercion though military force is brought into question. Changing the outlook and behavior of states and publics around the world requires a significant investment in time, and the use of force will sometimes be counterproductive in

⁵³⁰ Rhodes, *Presence, Prevention, and Persuasion* 405.

⁵³¹ Rothgeb, *Defining Power* 132.

⁵³² *Ibid.* 194.

⁵³³ *Ibid.* 132.

achieving US goals.⁵³⁴ This being the case, the logical course of action is either to use means other than force, or adapt the ends being sought. There may be a need to "scale back" stated US goals so they are "consistent with the means at America's disposal"; and to accept that many stated US goals as regards the "domestic transformations" of other states are extremely difficult to bring about.⁵³⁵

When examining the 2002 NSS in light of the use of force, one must ask whether the deficiencies of *deterrence* are really so different from the deficiencies of *preemption*. Although conceptually the difference between deterrence and preemption is quite clear, what classical deterrence and preemption have in common is that both rely on a credible threat of force rather than its actual use. While US policymakers may have little hope that the policy of preemption will diminish the number of potential terrorist attacks, they can be forgiven for hoping that the determination to act preemptively will diminish the number of actors willing to attack the US. This is because neither intelligence nor the deployment of military force is ever 100% effective.

Scholars and policymakers alike tend to think that preemption is a policy option when deterrence is no longer possible, and indeed the Strategy says this explicitly. But both preemption and deterrence are intended to prevent actors – target states or substate groups – from causing harm to the US. The assumption is that preemption will be effective by identifying looming threats, and eliminating them proactively through the use of military force. If this assumption is correct, and if taking preemptive action successfully eliminates antagonists, would not one expect that its success would have some sort of deterrent effect on other actors planning similar attacks against the US? If

⁵³⁴ Rhodes, Presence, Prevention, and Persuasion 405.

⁵³⁵ Ibid.

so, the tactic of preemption would in fact deter some enemies, as classical deterrence itself hopes to do.

To be fair, the 2002 NSS does present preemption as but a single option among many that the US will use when deemed necessary. However, an explicit preference is announced for preemption over deterrence, and over economic and diplomatic and cultural tools in cases involving development of WMD or support for substate terrorist groups. In order to assess whether a stated preference for preemptive force enhances US security and flexibility in dealing with these issues, one must consider them as features of the international security environment. It is to this changed and changing environment that we turn next.

7.0 NSS 2002 as Exceptional In Terms of a Response Necessitated by Exceptional Circumstances

7.1 Introduction

The principal criterion by which any national security strategy must be judged is the extent to which it is framed to deal with threatening dynamics in the international arena. The fact that in practice, US national security strategy documents are not issued yearly indicates that volatility in security environments generally takes place within predictable bounds.⁵³⁶ Shifting threat patterns will not *necessarily* challenge the fundamental assumptions in any NSS document. However, step changes are possible – if not inevitable – and the argument of NSS 2002 is that we have entered a time where the international security environment has changed to a degree that requires a concomitant change in national security strategy. As described in NSS 2002, "... new deadly challenges have emerged from rogue states and terrorists ... the nature and motivations of these new adversaries, their determination to obtain destructive powers hitherto available only to the world's strongest states, and the greater likelihood that

⁵³⁶ Indeed some US officials involved in the production and review of NSS documents believe they would be of more utility if produced quadrennially, rather than every year as mandated by law. In arguing against producing a new NSS in the absence of significant changes, one respondent noted, "[o]ne of the things I thought that was refreshingly good about this document [NSS 2002], whether you agreed with it or not, is it set forth policy direction for sort of, in broad terms, of what it was we sought, what the goals were ... I thought that it was clearly, specifically written. It was something that would be, the kind of directions that would, last the duration of the administration. It wasn't clear to me how, unless you were planning to change some of this, what you were going to do with the new version..." See Hoehn. Likewise, Hans Binnendijk, who as a senior official was involved with the production of NSS documents during the Clinton years on both the Department of State Policy Planning staff and on the NSC staff, suggested "It may well be ... that we ought to do one every four years and not go through this fire drill. In fact I think this administration didn't do one every year; they did 2002 and 2006 ... it may be that what the Bush administration did *de facto* is the right way to go." See Hans Binnendijk, Interview, 07 Nov 2006.

they will use weapons of mass destruction against us, make today's security environment more complex and dangerous."⁵³⁷

Prominent features of the current security environment include the increased influence of, and attention paid to, sub-state terrorist groups after 11 September 2001. The continued threat posed by nuclear, biological, and chemical weapons proliferation is another key feature. Further, there is a belief that these two threats may intersect to form a threat more significant than the sum of its parts. These threats are increasing or becoming more noticeable in an international environment defined in large part by US prominence.

Since 11 September 2001, the George W. Bush administration has consistently argued that the threat of terrorism in the 21st century is one that potentially threatens the fundamental security of the US. This argument regarding the seriousness of terrorism rests largely on the junction of two distinct threats: that posed by sub-state groups willing to use lethal violence against civilian populations, and that posed by the proliferation of nuclear, biological, and chemical weapons. It is the capability to obtain such a weapon, or to acquire the technology necessary to produce such a weapon, that most worries many analysts. Indeed, some view the possibility of a terrorist attack with WMD as absolutely central to US security. Even in the midst of the most serious financial crisis in two generations, one former Defense official went so far as to say, "[t]he No.1 challenge facing the next president is to prevent a terrorist group from detonating a nuclear weapon in an American city. If he successfully ended the conflict in Iraq, checked Iran, brokered an Israeli-Palestinian peace, cut carbon emissions,

⁵³⁷ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 13.

stabilized Pakistan, and artfully managed relations with China and Russia—but lost a million citizens in a nuclear attack, the nation would not be grateful."⁵³⁸

With these facts in mind, we will now survey the landscape of the contemporary security environment, first looking at the spread of WMD capacity. Current states of concern and non-state actors with the demonstrated willingness to conduct mass-casualty terrorist operations will then be discussed. Finally, some judgments will be drawn regarding the seriousness of threats posed by the intersection of WMD capacity and such non-state actors.

7.2 The Expansion and Extension of WMD Capacity

The immense military power of the US makes the use of non-conventional, asymmetrical, weapons against the US more appealing to terrorist groups and perhaps even some states.⁵³⁹ Weapons of mass destruction are often subdivided into type, usually nuclear, biological, and chemical. Every type is capable of inflicting a large amount of damage in human terms. However, weapons of mass destruction differ in terms of the extensiveness of that damage, and in terms of ease of production. For example, while the detonation of a nuclear bomb would cause extensive damage and casualties, the process to produce one is fairly intricate and costly. While a chemical weapon is easier to produce, it would cause relatively less damage than a nuclear explosion.

⁵³⁸ Robert L. Gallucci, "The Dream Team," *Foreign Policy*, no. Nov/Dec (2008).

⁵³⁹ Joshua Lederberg, ed., *Biological Weapons: Limiting the Threat*, BCSIA Studies in International Security (Cambridge, Mass: MIT Press, 1999) xii. This Forward was written by former Secretary of Defense William Cohen.

In terms of state-level threats, the US has relied on its conventional and nuclear forces to deter the use of nuclear, biological and chemical weapons against it. The prospect of an overwhelming US response to the use of such nonconventional weapons, employing either conventional or nuclear weapons, is hoped to be effective in preventing a nation from ever using such weapons against the US. Effective preparedness may also contribute to a deterrent effect; if the US develops response capabilities and plans that are perceived to be so effective that they would blunt the worst results of a nonconventional attack, such an attack may appear less attractive to an attacker.⁵⁴⁰

Nuclear Material

Many experts believe that non-state actors are far more likely to acquire a biological or chemical WMD capability than a nuclear weapon. However, concern about nuclear terrorism remains high. This is illustrated by the fact that the first anti-terrorism treaty that was adopted after 11 September 2001 is the International Convention on the Suppression of Acts of Nuclear Terrorism, which was adopted in 2005 and entered into force in 2007.⁵⁴¹

A huge investment is required in order to make a nuclear weapon, and the infrastructure needed to produce a nuclear device is more easily spotted than the apparatus needed to produce a biological agent.⁵⁴² In this sense, it is difficult to conceal a nuclear weapons capability. The dual use nature of nuclear technology complicates this, however. The infrastructure used for civilian nuclear programs on the one hand, and for the production of nuclear weapons on the other, is much the same. For example, heavy water and

⁵⁴⁰ Ibid. xiii.

⁵⁴¹ David P. Fidler, "International Convention for the Suppression of Acts of Nuclear Terrorism Enters into Force," ASIL Insight 12, no. 6 (2007).

⁵⁴² Richard K. Betts, "The New Threat of Mass Destruction," *Foreign Affairs* 77, no. 1 (1998): 32.

enriched uranium can be used in both civilian nuclear programs, and in order to produce nuclear weapons. Israel and India have used heavy water, natural uranium reactors in order to produce plutonium for use in their nuclear weapons.⁵⁴³

Chemical Agents

Although the potential of chemical weapons to cause fatalities is relatively less than that of nuclear and biological weapons, chemical weapons remain a significant concern.

Chemical agents can cause mass casualties. There exist several kinds of chemical agents. Choking agents, such as chlorine or phosgene gas, act upon the victim's ability to breathe and can result in death by asphyxiation. Both chlorine and phosgene are common chemicals that are commercially available. While relatively easy to produce, choking agents tend to be more slow acting, and more easily dispersed, than blistering agents. Blistering agents, such as mustard gas, burn exposed skin, cause blindness and vomiting, and can result in death by asphyxiation if inhaled. Blistering agents are also relatively easy to produce, and most of their ingredients are commercially available chemicals. Nerve agents, such as sarin and VX, are deadly in relatively small doses. In this regard, they are much more potent than choking and blistering agents. However the production of nerve agents requires greater technical expertise, and the chemicals needed to produce them are less available, than is the case with choking and blistering agents.⁵⁴⁴ This is not to discount the possibility of chemical nerve agents being used in terrorist attacks; indeed a particular concern is the ease with which such agents might be

⁵⁴³ Frank Barnaby, *How to Build a Nuclear Bomb: And Other Weapons of Mass Destruction* (New York: Nation Books, 2004) xv.

⁵⁴⁴ Peter Brookes, *A Devil's Triangle: Terrorism, Weapons of Mass Destruction, and Rogue States* (Lanham: Rowman & Littlefield, 2005) 150-151.

stolen from stockpiles in Russia, the country that currently possesses the world's largest store of chemical weapons.⁵⁴⁵

Still, one chemical agent viewed as more likely to be used in an attack is cyanide.

Cyanide could be utilized in the form of hydrogen cyanide gas, or even in liquid or solid form.⁵⁴⁶ Cyanide, like chlorine and phosgene, is a fairly common chemical and easier to acquire than nerve agents. For example, a variety of substances that contain cyanide are used widely in industrial processes. Worryingly, one research institute has documented a number of "possessions, plots, or uses involving cyanide by terrorists".⁵⁴⁷ Dozens of such instances have occurred, including recent incidents in which al Qaeda supporters were involved.

Evidence also came to light in 2004 that a group of individuals in the UK were exploring the possibility of using a less common substance, osmium tetroxide, as the agent in a chemical attack. As far as is known, this was the first time osmium tetroxide was planned to be employed as a weapon.⁵⁴⁸ This engendered concern among authorities and researchers, as the substance may be obtained commercially, and is quite toxic (it easily becomes a vapor at room temperature, and can cause severe chemical burns and permanent blindness). However its availability is less widespread, and its cost significantly higher, than other chemicals of concern such as cyanide, chlorine and phosgene.⁵⁴⁹ For this reason, the use of osmium tetroxide as a weapon may be less likely than those other chemicals. Nevertheless, the interest taken in the substance

⁵⁴⁵ Paul F. Walker and Jonathan B. Tucker, "The Real Chemical Threat [Op-Ed]," Los Angeles Times, 01 Apr 2006.

⁵⁴⁶ Amy Sands, "Deconstructing the Chem-Bio Threat: Testimony for the Senate Foreign Relations Committee" (Center for Nonproliferation Studies, 19 Mar 2002 [cited 21 Nov 2008]); available from <http://cns.miis.edu/testimony/asands.htm>.

⁵⁴⁷ Ibid.[cited date as above].

⁵⁴⁸ Michelle Baker and Margaret E. Kosal, "Osmium Tetroxide - a New Chemical Terrorism Weapon?" (Center for Nonproliferation Studies, 13 Apr 2004 [cited 21 Nov 2008]); available from <http://cns.miis.edu/stories/040413.htm>.

⁵⁴⁹ Ibid.[cited date as above].

demonstrates the willingness of groups whose aim is to inflict mass casualties to experiment with novel substances and adapt their means of attack.

There exists a degree of overlap between chemical and biological weapons, in that a chemical that is derived from a biological source may be considered both a chemical agent and a biological agent. If one conceives of man-made chemicals (such as mustard gas) lying at one end of a spectrum, and naturally occurring biological agents (such as anthrax bacteria) lying at the other end of the spectrum, then a chemical derived from a biological source would lie somewhere in the middle.⁵⁵⁰ Such a substance – a "midspectrum" agent – actually falls within the purview of both the 1972 Biological and Toxin Weapons Convention and the Chemical Weapons Convention that entered force in 1997.⁵⁵¹

Midspectrum agents include toxins and bioregulators. Toxins are substances produced by biological organisms which are poisonous. It is possible to synthesize toxins in the laboratory rather than harvest them from living organisms. Bioregulators are chemicals produced by biological organisms which stimulate or inhibit biological processes within an organism. Bioregulators can therefore be lethal if introduced into a body, or if a body is caused to produce abnormally high concentrations of a natural bioregulatory chemical.⁵⁵² As an example, Agent Orange was a herbicide used by the US during the Vietnam War. Agent Orange acts by mimicking a naturally occurring bioregulator; it works by being absorbed by the leaves of the plant and then acting internally on the plant's growth process.⁵⁵³ Both bioregulators and toxins tend to produce effects much

⁵⁵⁰ Malcolm Dando, *The New Biological Weapons: Threat, Proliferation, and Control* (Boulder, CO: Lynne Rienner Publishers, 2001) 10-12.

⁵⁵¹ *Ibid.* 2.

⁵⁵² E Kagan, "Bioregulators as Instruments of Terror," *Clinics in Laboratory Medicine* 21, no. 3 (2001).

⁵⁵³ Dando, *The New Biological Weapons* 25.

more quickly than biological weapons agents such as anthrax, which take hours or days to produce symptoms.⁵⁵⁴

Biological Agents

Naturally occurring biological agents (such as anthrax and botulinum toxin) were weaponized in large-scale state programs in the 1950s and 1960s. It is quite possible that these agents might appeal to terrorist groups or states interested in developing a WMD capability, since they have already undergone rigorous testing and been produced as viable components of biological weapons. However, more novel agents and techniques are also quite worrying. For example, it is known that the Soviet Union began applying advances in genetic engineering to its own biological weapons program in order to increase the antibiotic resistance of plague bacteria. It is possible that genetic engineering could be used by other entities as well. The intent might be to increase antibiotic resistance of a variety of harmful agents, or to cause harmless bacteria to produce a dangerous toxin, or even to modify biological agents so as to target specific ethnic groups.⁵⁵⁵ Microorganisms might also be engineered to be more easily dispersed, or to be less easily detected by warning systems.⁵⁵⁶ Notably, a research team in Australia inadvertently created a genetically modified mousepox virus which was fatal to every mouse that contracted it. The virus targets the immune system of its victims. While the mousepox virus can not be contracted by humans, it is very similar to the human smallpox virus. This raises the possibility that a similarly modified smallpox virus could be developed that would be fatal in 100% of cases.⁵⁵⁷

⁵⁵⁴ Kagan, "Bioregulators as Instruments of Terror."

⁵⁵⁵ Dando, *The New Biological Weapons* 11.

⁵⁵⁶ *Ibid.* 41.

⁵⁵⁷ Rachel Nowak, "Disaster in the Making: An Engineered Mouse Virus Leaves Us One Step Away from the Ultimate Bioweapon," *New Scientist* 13 (2001).

Toxins are produced by a variety of plants and animals. Their toxicity varies, as does the ease with which they can be produced and delivered to a target. The less toxic a substance, the more of it must be produced for the same effect. The toxins most likely to be used as weapons either have a very high toxicity – thus requiring that less of it be produced – or a lower toxicity that is offset by the fact that it is relatively easy to produce large quantities of it.

Further, if a toxin can be aerosolized, it is more easily dispersed over a large area while remaining an effective weapon. Therefore the toxins that would make the most effective and practical weapons are those which could be delivered in a respirable form, and have high toxicity and/or are easily produced in large quantities. At present, most of the toxins that fulfill these requirements are produced by bacteria. Of course, plant toxins such as ricin are also a major concern, and continuing advances in technology mean that toxins that are difficult to process or aerosolize at present may become more easily produced in the future.⁵⁵⁸

Biological weapons agents can be produced with a relatively minor financial investment and only modest technical expertise.⁵⁵⁹ The technical obstacles to such production have diminished over time, making it less difficult and more likely than in years past. A principal feature of biological agents that distinguishes them from conventional weapons is their potential to inflict an extremely high number of casualties. The most lethal terrorist attacks that have been carried out have resulted in a few hundreds or a few thousands of deaths. In comparison, it has been estimated that a large-scale terrorist

⁵⁵⁸ Dando, *The New Biological Weapons* 50-55.

⁵⁵⁹ Jeffrey D. Simon, "Biological Terrorism: Preparing to Meet the Threat," in *Biological Weapons: Limiting the Threat*, ed. Joshua Lederberg (Cambridge, Mass: MIT Press, 1999).

attack employing biological agents could result in hundreds of thousands, or even millions, of deaths.⁵⁶⁰

It is here that some see biological weapons as the most worrisome kind of nonconventional weapon. An attack relying on biological weapons could potentially cause so many deaths as to make the casualty count comparable to an atomic bomb. As one expert put it, biological weapons are "equivalent in potential lethality to nuclear weapons."⁵⁶¹

Yet, the materials needed to produce a biological agent are relatively affordable and easily obtainable.⁵⁶² There are acknowledged difficulties in the area of weaponizing biological agents to such a degree that they can be carried by missiles and survive delivery via a warhead. However, equipment to produce large quantities of a biological agent has become more accessible in recent years. Further, a substate group could well disperse a biological agent in aerosol form by using an airplane or truck, thus negating the need for a more highly refined biological agent that could be used in a warhead.⁵⁶³ A number of biological agents can be produced by individuals at home or in a small lab, and without advanced scientific knowledge. The production of other biological agents would require more sophisticated training. However, individuals with the level of training required are not rare, and a terrorist group would probably have little difficulty hiring or recruiting such a person.⁵⁶⁴

The knowledge required for producing biological agents and modifying microorganisms is also relatively easy to obtain, and has extended the capacity of individuals to

⁵⁶⁰ Ibid., 238.

⁵⁶¹ Dando, *The New Biological Weapons* 2.

⁵⁶² Betts, "The New Threat of Mass Destruction," 32.

⁵⁶³ Simon, "Biological Terrorism: Preparing to Meet the Threat," 239.

⁵⁶⁴ Ibid.

reproduce known agents and even create new ones. This is due in part to the ease with which information is shared electronically around the globe in the 21st century. However, it is also the result of accepted practice in scientific research; that is, of openly publishing scientific results so the scientific community can review and share in newfound knowledge. Results which lay out how to modify microorganisms in harmful ways are regularly published in open scientific journals.⁵⁶⁵ While in many ways this is a positive example of shared knowledge and progress, it raises serious concerns with regard to the possible use of scientific techniques to develop extremely dangerous bioweapons.⁵⁶⁶

In this globalized world, disseminative systems facilitate physical exchanges (as when individuals, objects or organisms are moved about by way of air travel) and electronic or knowledge exchanges (as when stocks are electronically traded or information is shared on the internet).⁵⁶⁷ Thus disseminative systems aid in both the physical and virtual extension of the ability to produce WMD. It is a troubling fact that such systems result in unforeseen consequences and vulnerabilities, such as increasing the probability that genetically engineered microorganisms harmful to human life will be created. More troubling still is the reality that in the contemporary world it is likely impossible to prevent the continued dissemination of such knowledge.

It should be stressed that the same issue of dual use technology mentioned above, with regard to nuclear material, also exists in regard to biological material. Almost all facilities and material needed to produce the lethal biological agents for a potential attack are dual use; that is, the material used to produce illicit, lethal biological agents is

⁵⁶⁵ Nowak, "Disaster in the Making."

⁵⁶⁶ Jim Whitman, "Disseminative Systems and Global Governance," *Global Governance* 11, no. 1 (2005): 86.

⁵⁶⁷ *Ibid.*: 87-88.

also used in legitimate research facilities, and to produce legitimate products such as vaccines.⁵⁶⁸ For example, there are many promising uses of toxins in the treatment of disease, and the medical and biotechnology communities possess a high degree of interest in researching toxins.⁵⁶⁹ This is a perfect example of the dilemma posed by dual use technology. It is extremely difficult to ascertain with certainty whether research is being conducted for legitimate and beneficial reasons or for more nefarious ones because the two enterprises require exactly the same resources and equipment. It is an exceedingly delicate balance that must be struck between allowing beneficial research to continue, while controlling the proliferation of biological weapons technology. In fact, in terms of disseminative systems it may be impossible to separate the two.⁵⁷⁰

Finally, it has been pointed out that both the nature of an attacker and the type of intended target affect the amount of biological agent required for an attack; the same holds true for chemical agents. For example, a non-state terrorist group targeting a civilian population with a single act would likely require substantially less agent than a state targeting another state's military in a large-scale strategic way.⁵⁷¹ It might be easier not only to produce smaller amounts of agent, but also easier to evade detection.

The constraints on the construction of a small-scale WMD capacity by a sub-state group differ from the constraints on the construction of a large-scale military WMD capacity.

⁵⁶⁸ One notable expert, Graham Pearson, succinctly described the difficulty dual use technology poses to effective monitoring: "Two key lessons emerge from the experience relating to weapons of mass destruction in Iraq. First, that an aggressor state seeking to use chemical or biological weapons is likely to choose to develop a mobilization capability based on and embedded in dual-purpose technology and equipment. It likewise follows that, by adopting such a mobilization approach when agents will be produced as required to be used so obviating the needs for storage and stability characteristics, chemical and biological materials may well be chosen that are not normally regarded as candidate chemical or biological agents. This lesson has important consequences for any future inspection regime in that the organization engaged in such inspections has to be trained to look out for indications of unusual chemical or biological materials of types and quantities that are inconsistent with peaceful permitted purposes." See Pearson, *The Search for Iraq's Weapons of Mass Destruction: Inspection, Verification, and Non-Proliferation* 273-274. See also Lederberg, ed., *Biological Weapons: Limiting the Threat* xii.

⁵⁶⁹ Dando, *The New Biological Weapons* 57.

⁵⁷⁰ Whitman, "Disseminative Systems and Global Governance," 90.

⁵⁷¹ Dando, *The New Biological Weapons* 121-123.

A sub-state group might only need to construct a very small number of WMD, or even just a single one. When producing only a limited number, the production process could afford to be inefficient.⁵⁷² This WMD could be improvised. It could be more unwieldy and less stable than a more professional product produced by a military. Conversely, chemical and biological agents could be stored and delivered in containers smaller than would be required for military use. In the case that the weapon contained components with a limited shelf-life, the problem could be overcome by using the WMD shortly after it was made rather than storing it for possible future conflicts. Further, a non-state group might be able to compromise on the precision of such a weapon while still achieving its goal.⁵⁷³

Radiological Weapons and Cyberterrorism

Radiological weapons and cyberterrorism deserve mention at this point. Although neither is classed as WMD, both have the potential for causing large-scale social disruption and enormous economic damage. Even significant casualties could result from their use, both directly and as a result of ensuing panic.

A radiological bomb, or "dirty bomb", is not considered a WMD. The use of a radiological bomb would involve dispersing some sort of radioactive material with conventional explosives. The radioactive material that could be used differs from the highly refined material, such as enriched uranium, which is needed to construct a nuclear bomb. The radioactive material used in a radiological bomb would probably be of a type relatively easy to obtain from a medical or industrial facility. The use of such a

⁵⁷² Malcolm Dando, "The Bioterrorist Cookbook," Bulletin of the Atomic Scientists Nov/Dec (2005).

⁵⁷³ Richard A. Falkenrath, Robert D. Newman, and Bradley A. Thayer, *America's Achilles' Heel: Nuclear, Biological, and Chemical Terrorism and Covert Attack*, BCSIA Studies in International Security (Cambridge, MA: MIT Press, 1998) 100. See Box 6: Terrorist Weapons are Easier to Build than Military Weapons.

bomb would not result in as many casualties as would the detonation of a nuclear bomb. However, it is mentioned in passing here because some estimate that its economic and social impact could be quite large. For example whole blocks of a city would need to be decontaminated or even rebuilt after such an attack; while such an area is relatively small, if it were to include the heart of a financial district, or national seat of government, the disruption could be enormous. The possibility of inflicting a large amount of financial damage and social harm, coupled with the relative ease and low cost of obtaining radioactive material and conventional explosives, might make the use of such a weapon appealing to a would-be attacker.⁵⁷⁴

In contrast to the threat of a sub-state group acquiring weapons that once only nation-states could hope to possess is the threat posed by a relatively new mode of attack: cyberwarfare or cyberterrorism. For technology plays more than one role in this consideration of security. Technological advances have led to the ability to produce more lethal and devastating weapons to use in threatening the US and civilian populations in general. Technology also plays a key role in how information on how to obtain or manufacture such weapons is disseminated.

Technological advances in communications (e.g. the internet and mobile phones) have facilitated the planning and coordination of actors who wish to inflict harm on the US, at both the sub-state and state levels. Technology also provides a target for such actors, in terms of the telecommunications architecture which all modern states depend on. While incidents of cyberterrorism have been limited so far, it has become an increasing concern to policymakers and analysts.

⁵⁷⁴ Brookes, *A Devil's Triangle* 141.

Cyberterrorism includes attacks that target the communications or information architecture of a state. To an extent it is defined by what is targeted, rather than what is hoped will result from an attack. Cyberterrorists may aim to cause panic in a civilian population, inflict financial harm on a government, or even cause mass casualties in some way.

To the extent that email and other methods of communication that rely on computer networks have already been used by sub-state groups for the purpose of planning and coordinating terrorist attacks, cyberterrorism is a present reality. However, when considering the possibility that networks themselves will be targeted in order to damage a country's infrastructure or essential services, opinion differs on how to classify the threat. Significant disagreement exists as to the magnitude of damage a concerted cyberterrorist attack could inflict on critical US infrastructure.⁵⁷⁵

One possibility is that while a cyberattack targeting US infrastructure might not directly result in large financial losses or mass casualties, that it might increase such harm if carried out in concert with a nuclear, biological, or chemical attack.⁵⁷⁶ Alternatively, computer networks may be harmed if the facilities they are housed in, or transmission lines, are physically targeted. Such physical targeting may make use of conventional explosives or electromagnetic energy (e.g., an electromagnetic pulse). Networks may also be targeted by other computer networks, through hacking, the use of stolen access information, or through denial-of-service "swarm" attacks.⁵⁷⁷

⁵⁷⁵ Clay Wilson, "Computer Attack and Cyberterrorism: Vulnerabilities and Policy Issues for Congress," in *Cyberterrorism and Computer Attacks*, ed. Lawrence V. Brown (New York: Novinka Books, 2006), 8-9. For the view that finds it unlikely for cyberterrorism to result in mass casualties, see Mark Pollitt, "Cyberterrorism, Fact or Fancy?," in *Cyberterrorism and Computer Attacks*, ed. Lawrence V. Brown (New York: Novinka Books, 2006).

⁵⁷⁶ Wilson, "Computer Attack and Cyberterrorism," 3.

⁵⁷⁷ *Ibid.*, 4. Wilson notes that in the 1991 Gulf War, the US targeted Iraqi computer communications with conventional missiles. More recently there have been reports of Russia utilizing a computer network attack against Georgia during the first stages of its military action there in 2008. See Newshour,

It is also likely that as time goes on, supporters of non-state groups wishing to target the US will enhance their technical expertise. Further, to the extent that US military and intelligence actions have hindered some non-state groups from organizing and carrying out physical attacks, they will increasingly use computer networks both for planning and as the means of attack itself.⁵⁷⁸ The object of a cyberattack may be to cause economic damage by damaging a computer network itself, or by having negative effects on a nation's financial systems. If a critical infrastructure such as the electric grid is targeted, physical damage may result, with possible economic effects and human casualties. It is conceivable that targeting other infrastructure such as air traffic control and public and private communication systems might have similar results.⁵⁷⁹

7.3 "Rogue" States, Weak States, and Terrorist Organizations

The term "rogue state" became more widely used by the US and others in the post-Cold War years, but the term had existed for decades before. Further, US administrations have used other epithets to describe states antagonistic to the US who often act outside of international norms: pariah states, outlaw states, renegade states, and states of concern. There is a danger when using such phrases that crucial differences between particular nations and issues can blur together.⁵⁸⁰ There is likewise a lack of definitional consensus in much of the academic literature on weak states, with various terms such as

"'Cyberwar' Emerges Amid Russia-Georgia Conflict" [Transcript] (PBS, 13 Aug 2008 [cited 04 Feb 2009]); available from http://www.pbs.org/newshour/bb/europe/july-dec08/cyberwar_08-13.html. See also Travis Wentworth, "You've Got Malice" (Newsweek, 23 Aug 2008 [cited 04 Feb 2009]); available from <http://www.newsweek.com/id/154965>.

⁵⁷⁸ John Rollins and Clay Wilson, "Terrorist Capabilities for Cyberattack: Overview and Policy Issues," in *Cyberterrorism and Computer Attacks*, ed. Lawrence V. Brown (New York: Novinka Books, 2006), 64-67.

⁵⁷⁹ Martin Charles Golumbic, *Fighting Terror Online: The Convergence of Security, Technology, and the Law* (New York: Springer, 2008) 19-22.

⁵⁸⁰ Robert S. Litwak, "Rogue States a Handy Label, but a Lousy Policy," *Washington Post*, 20 Feb 2000.

"weak state", "failed state", and "failing state" enjoying wide usage.⁵⁸¹ Different terms have varying connotations, and can result in a level of ambiguity in scholarly analysis.

However, while such phrases are not always useful, for practical reasons the term "rogue state" will be adopted here as it is the term used in NSS 2002. The two examples of rogue states mentioned by name in NSS 2002 were Iraq and North Korea.⁵⁸² A primary US concern with such rogue states is that while none can match the destructive power of the US, or that possessed by the defunct Soviet Union or other great powers, that a more limited nuclear, chemical, or biological attack could be launched against the US. Such an attack might occur because the leaders of a rogue state are not effectively deterred in the same way the superpowers were during the Cold War. A related concern is that a rogue state might acquire a WMD capability and then transfer a weapon or agent to a terrorist group for more covert use against the US or other Western nations.⁵⁸³

Weak states are also of concern to the US and other Western states. Weak states lack government infrastructure to a significant degree, often due to years of conflict. Social support structures are also often absent. The lack of an effective governmental authority in weak states tends to foster violence. Often an expression of this is criminal violence, when crime increases in the absence of state authority. Political violence may increase as well, as the power void is contested by groups competing for dominance.⁵⁸⁴ The existence of a weak state also has consequences external to the country; the economies of its neighbors suffer due simply to their proximity to such instability, and illegal

⁵⁸¹ Usman Hannan and Hany Besada, "Dimensions of State Fragility: A Review of the Social Science Literature [Working Paper 33]," (Centre for International Governance Innovation, 2007), 1-6.

⁵⁸² United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 14.

⁵⁸³ Dan Caldwell and Robert E. Williams, *Seeking Security in an Insecure World* (Lanham, MD: Rowman & Littlefield Publishers, 2006) 50-51.

⁵⁸⁴ Hannan and Besada, "Dimensions of State Fragility: A Review of the Social Science Literature [Working Paper 33]," 6.

narcotics smuggling that often occurs in weak states also has a effects beyond its borders.⁵⁸⁵

Most weak states do not have a WMD capacity, but concern remains that the lack of authority within them might facilitate the establishment of safe havens for terrorist groups where WMD programs of some sort might be pursued.⁵⁸⁶ This is because in weak states, rules of compliance and monitoring systems do not function well. Therefore, a distinctive feature of a weak state is that it allows for "under the radar" activities and threats to develop.

Weak states and rogue states are qualitatively different. Weak states are generally characterized by a lack of central control, whereas a rogue state such as North Korea has a very centralized dictatorial control. These two qualities can combine, as was the case in Afghanistan. In that case a weak state with a failed social infrastructure also exhibited some "rogue" tendencies, in that the Taliban regime controlling the country was little affected by outside pressure and international norms. Further, a very real terrorist link did exist in Afghanistan, as the Taliban had allowed al Qaeda the use of its territory for training and sanctuary purposes. For its part, al Qaeda was supportive of Taliban rule. Weak states and rogue states are both equally problematic, because both operate outside the system – that is, in noncompliance with international norms – while the usual monitoring mechanisms are not present.

Just how dangerous sub-state groups are, and the kind of threat that they pose, is disputed. The use of terrorism may be more effective against liberal democratic states than more autocratic ones, as democratic governments are more susceptible to changing

⁵⁸⁵ Ibid., 7-8.

⁵⁸⁶ Ibid., 9.

public opinion.⁵⁸⁷ Further, the lethality of terrorist attacks has increased significantly over the past several decades, and there is no indication that it will decrease in the foreseeable future.⁵⁸⁸ Still, the threat of terrorism is judged by some as serious but manageable through the use of mechanisms such as law enforcement. Others believe it poses an existential threat to Western democracies, including the US. These differing analyses of the nature and degree of the threat result in drastically different policy prescriptions.

No non-state group – some would call it a movement – has inflicted as much damage on the US in recent years as al Qaeda. The origin of al Qaeda may be traced to the resistance fighters in Afghanistan who fought against the Soviet forces after they invaded the country in 1979. A number of attacks on US interests in recent years have been associated with the group: the bombing of the World Trade Center in New York in 1993; support for attacks against US military personnel in Somalia in 1993; the bombing of the Khobar Towers complex in Saudi Arabia in 1996; the bombing of US embassies in Kenya and Tanzania in 1998; the bombing of the US Navy destroyer USS Cole in Yemen in 2000; and the 11 September attacks in New York and Washington in 2001.⁵⁸⁹ In the years since 2001, other attacks traced to al Qaeda have occurred in Iraq and Afghanistan since the US invasion of those countries.

As the potential capability of non-state actors to inflict mass casualty attacks is a relatively novel one, the resilience and linkages between such groups is unique as well. Globalized communication is a common factor linking capability and intent. It allows for the dissemination of ideologies as well as technical knowledge, while enabling groups and individuals to plan and travel worldwide.

⁵⁸⁷ Brookes, *A Devil's Triangle* 13.

⁵⁸⁸ Barnaby, *How to Build a Nuclear Bomb* 131.

⁵⁸⁹ Brookes, *A Devil's Triangle* 18.

At the very heart of the 2002 NSS is the intent to deal forcefully with sub-state actors overseas: "[w]e will disrupt and destroy terrorist organizations by ... defending the United States, the American people, and our interests at home and abroad by identifying and destroying the threat before it reaches our borders."⁵⁹⁰ However, by their very nature, networked sub-state groups are resistant to traditional military tactics.⁵⁹¹ Such groups also often present singular challenges in the area of intelligence gathering, where the familial basis of groups make it difficult for acquiring human intelligence.⁵⁹²

Of course, the high number of potential fatalities and general panic that would accompany a WMD attack actually restrains some terrorist groups from perpetrating such an attack. This is true of groups who fear that inflicting too many deaths will actually be counterproductive by causing their supporters to turn against them and their antagonists to consolidate opposition to them.⁵⁹³ While not shying away from violence, terrorist groups do sometimes temper the magnitude of their attacks so as not to sacrifice potential support. For example, though the Provisional Irish Republican Army in Northern Ireland (PIRA) carried out major bombing attacks in England, it seems one goal was not to be responsible for too many civilian deaths, which would risk a tremendous backlash of negative English public opinion.⁵⁹⁴

Even so, researchers have identified specific groups who have viewed the use of biological agents as being a desirable means of achieving various aims. Though no

⁵⁹⁰ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 6. On the same page is asserted "...we recognize that our best defense is a good offense..."

⁵⁹¹ Mack, "Why Big Nations Lose Small Wars: The Politics of Asymmetric Conflict."

⁵⁹² Jeffrey H. Norwitz, "Combating Terrorism: With a Helmet or a Badge?," in *Terrorism and Counterterrorism: Understanding the New Security Environment, Readings & Interpretations*, ed. Russell D. Howard and Reid L. Sawyer (Guilford, CT: McGraw-Hill/Dushkin, 2004), 476.

⁵⁹³ Simon, "Biological Terrorism: Preparing to Meet the Threat," 239.

⁵⁹⁴ Malcolm Dando, *Biological Warfare in the 21st Century: Biotechnology and the Proliferation of Biological Weapons* (London: Brassey's, 1994) 198.

specific group is currently known to possess biological weapons, the mere fact that some sub-state groups view biological weapons as a useful means to "murder large numbers of people" is sobering.⁵⁹⁵ The extent to which a particular substate group, such as al Qaeda, is likely to use WMD may be debated. However, that group's persistence in attacking US interests and attempting to inflict mass casualties – as mentioned above – indicates that it would attempt to use any WMD capability it possessed. It is clear that al Qaeda has explored the possibility of acquiring biological weapons, as well as nuclear and chemical ones.⁵⁹⁶

Terrorist groups most likely to use weapons of mass destruction are those who have constituencies who are not concerned with possible public opinion backlash against them. Such groups may include religious cults, white supremacist groups, and global revolutionary groups.⁵⁹⁷ In modern times, the detected use of biological weapons by substate groups has to date been very rare and limited. Two examples stand out. The first is the use of Salmonella by the Rajneeshee cult in Oregon, USA in 1984. The group intended to infect a portion of the population in order to affect the outcome of local elections. This case also serves as an example of the difficulty in tracing the use of biological agents; although terrorism was suspected, it could not be proven until a cult member confessed two years later.⁵⁹⁸

Equally worrying was the Aum Shinrikyo's sarin attack in the Tokyo subway in 1995. Sarin is a chemical nerve agent. However, subsequent investigation of Aum Shinrikyo resulted in discovery of a nascent biological weapons program. The group also sent

⁵⁹⁵ W. Seth Carus, "Unlawful Acquisition and Use of Biological Agents," in *Biological Weapons: Limiting the Threat*, ed. Joshua Lederberg (Cambridge, Mass: MIT Press, 1999), 218.

⁵⁹⁶ Barnaby, *How to Build a Nuclear Bomb* 131-134.

⁵⁹⁷ Simon, "Biological Terrorism: Preparing to Meet the Threat," 240.

⁵⁹⁸ LTC George Christopher, LTC Theodore Cieslak, MAJ Julie Pavlin, COL Edward Eitzen, "Biological Warfare: A Historical Perspective," *Journal of the American Medical Association* 278, no. 5 (1997).

members overseas to acquire the ebola virus (unsuccessfully), and is alleged to have attempted staging an anthrax attack (also unsuccessfully).⁵⁹⁹

Just given the increased ease with which a substate group might acquire WMD is cause for serious concern. However this is exacerbated further by the fact that disparate groups are becoming more interlinked globally. Many have begun to apply the phrase "a network of networks" to describe both the facilitative nature of al Qaeda as a movement, and the developing relationship between terrorist groups more generally.⁶⁰⁰

7.4 An Historically Novel Global Threat

All states seek to protect their interests and enhance their influence in the international community, as has been discussed.⁶⁰¹ Yet, the US is not uniquely threatened by the elements of the current security environment – hence the "Global War on Terror", and at least a rhetorical commitment by other states to aid the US in that struggle. This shared perception of threat and rhetorical commitment contributes to a consolidation or solidification of the rationale driving the US disposition to allow itself preemptive action. This holds true even though other states, including Western states, might not subscribe to a policy of preemptive action. These states validate the *rationale* for preemption, even if they do not necessarily endorse the response.

And in fact many outside of the US find it difficult to support or agree with the US response to the current security environment, as put forth in the 2002 NSS. This is not

⁵⁹⁹ Ibid.

⁶⁰⁰ Brookes, A Devil's Triangle 94. See also Ronald J. Deibert and Janice Gross Stein, "Hacking Networks of Terror," in Dialog-IO (IO Foundation and the Massachusetts Institute of Technology, 2002), 7. See also MI5, Al Qaida's Structure 2007 [cited 01 Dec 2008]; available from <http://www.mi5.gov.uk/output/Page543.html>.

⁶⁰¹ See Chapter One above.

because the Strategy may appear to put US interests ahead of the interests of others, for all states have particular interests that are self-serving. However, one reason some object to the Strategy is the stated US intention to establish and maintain its power beyond challenge. Such a Strategy, far from being universally reassuring to other states, is sometimes viewed as rather alarming.⁶⁰² This stated goal of dominance paired with military and diplomatic US actions in international affairs has resulted in a growing perception of the US as threatening. How quickly, or if, this might be reversed under the next presidency, is not clear.

In short, the probable extension of WMD capacity to rogue nations and non-state terrorist groups is a novel and pressing global concern. The ability of non-state actors to access the constituent components of WMD, and to access the knowledge necessary to construct WMD, is real threat. A number of contributing factors only exacerbate the threat. These factors include the easy concealment of small-scale WMD production facilities with little outstanding infrastructure, the availability of raw materials with which to produce chemical and biological weapons, the ability to genetically alter organisms for harmful purposes, and ready access to technical expertise. Strikingly, such factors conform to none of the classic indicators of imminent military threat. This fact has important legal ramifications for determining if and when a threat is imminent, which will be discussed further in Chapter Eight.

⁶⁰² Wes Avram, "On Getting Past the Preamble: One Reading of the Strategy," in *Anxious About Empire: Theological Essays on the New Global Realities*, ed. Wes Avram (Grand Rapids, MI: Brazos Press, 2004), 30.

7.5 Conclusion

It appears clear that the security environment has indeed changed in significant ways; novel threats have evolved which may require novel responses. Yet although this much clear, it is debatable whether the US response to this changed environment is tailored appropriately. One could reasonably argue that the US response is suitable – at least as far as it goes. When faced with the myriad possibilities of terrorist attacks utilizing WMD, a policy of preemptive self-defense may well be proportional, or exercised in a proportional manner.

However, the US response does not seem adequate. Recent US strategy has largely ignored larger, more fundamental trends high on the progressive agenda that constitute threats as well. There is a growing acceptance among expert scientists and the lay American public that pressing threats to security include more than Islamic extremism and the rise of other great powers such as China and Russia. A more holistic view of contemporary threats might include infectious disease and viral pandemics, climate change, ethnic conflict and nationalism, religious fundamentalism, the stability of the globalized economy, and mass migration.⁶⁰³ These threats share a commonality: integrated policies on the part of the US government and other governments are needed to effectively address them.⁶⁰⁴ Further, though some threats may require a forceful response – preemptive or otherwise – other dangers would be more effectively addressed through diplomacy and the rule of law. For example, a prominent biological

⁶⁰³ Gary Hart, "Op-Ed: America's Next Chapter," New York Times, 25 Jun 2008.

⁶⁰⁴ Gary Hart, *Under the Eagle's Wing: A National Security Strategy of the United States for 2009* (Golden, CO: Fulcrum Pub., 2008) xiv. See also 4. Former Secretary of Defense William Cohen wrote the introduction to this book by former Senator Gary Hart.

weapons expert has argued that the absence of a more effective arms control regime for biological weapons poses a real threat to human survival.⁶⁰⁵

Relatedly, it is highly improbable that states will succeed in preventing every act of conventional terrorism from ever occurring. It is just as improbable that acts of bioterrorism – terrorism employing biological weapons and/or biological agents – will never come to pass. This being the case, it is crucial to focus efforts on two areas. The first is prevention, that is attempting to minimize the occurrence of terrorist attacks. The second is response, or mitigating the consequences of a terrorist attack when it does occur. The importance of prevention and effective response can be recognized when considering attacks that employ either conventional means or biological agents. Favoring a preemptive use of force doctrine at the expense of response preparedness may come to be seen as shortsighted.

In addition, problems exist in gauging the imminence of perceived threats and attacks. This derives from the difficulty in accurately measuring another state's real capability and ultimate intent. Policy choices, including the decision to use force, are necessarily made in the heat of the moment, as situations are developing. Yet it is not unusual to observe, with some historical perspective, that those choices have been based on inaccurate understandings of another state's true objectives and motivations.⁶⁰⁶

⁶⁰⁵ Dando, *The New Biological Weapons* 10.

⁶⁰⁶ Peter Carlson, "Eyes Only: (Redacted): In Its ____ Offices, the National Security Archive Houses Stockpiles of ____, Gotten from the Government by ____ [Sic]," *Washington Post*, 08 May 2008. Malcolm Byrne, the US National Security Archive's Director of Research, points out that according to declassified US and Soviet documents, the US was mistaken when judging the reason behind the Soviet invasion of Afghanistan. "American documents reveal, Byrne says, that the Carter administration believed the Soviets invaded Afghanistan as part of a long-range strategy to expand southward in pursuit of warm-water ports. But Soviet documents show that the Russians invaded because they feared that the new Afghan leader, who'd been educated in the United States, might be an American spy. 'This is something,' Byrne says, 'that you constantly see in these documents - how little we or anybody else knows about our adversaries.'" See also Gaddis, *We Now Know: Rethinking Cold War History*.

The effectiveness of the US strategy for pursuing its goal of terrorism eradication, then, is in question. US counterterrorism strategy has continued to be reactive. Further, the ability of the US to continue to *apply* its counterterrorism strategy is in doubt. This is due to the fact that US forces are already at capacity dealing with the operations in Afghanistan and Iraq.⁶⁰⁷ With its military stretched to breaking point, it seems impossible for it to continue attempting to confront every possible threat it conceives of.⁶⁰⁸

There is a significant difference between setting a desired goal, and defining with clarity the means of achieving it. One may settle decisively on a certain political objective, for example the elimination of terrorist groups of global reach.⁶⁰⁹ Deciding on a detailed and executable plan for achieving that objective, however, is a separate matter. When considering the overall effectiveness of the Global War on Terror – a conflict that by definition has a preeminent military component – one must consider both ends and means, strategic and tactical. This consideration is difficult to make when "vital parts of the military plan – strategy and tactics – remain an ad hoc process."⁶¹⁰

⁶⁰⁷ John Davis, "The War on Terrorism: Impact on Al Qaeda," in *The Global War on Terrorism: Assessing the American Response*, ed. John Davis (New York: Nova Science Publishers, 2004), 214.

⁶⁰⁸ This is what Ron Suskind has dubbed the "One Percent Doctrine", after a statement made by Vice President Dick Cheney: "If there's a one percent chance that Pakistani scientists are helping al Qaeda build or develop a nuclear weapon, we have to treat it as a certainty in terms of our response," Cheney said. He paused to assess his declaration. 'It's not about our analysis, or finding a preponderance of the evidence,' he added. 'It's about our response.' So, now spoken, it stood: a standard of action that would frame events and responses from the administration for years to come. The Cheney Doctrine. Even if there's just a one percent chance of the unimaginable coming due, act as if it is a certainty. ... This doctrine – the one percent solution – divided what had largely been indivisible in the conduct of American foreign policy: analysis and action. Justified or not, fact-based or not, 'our response' is what matters. As to 'evidence', the bar was set so low that the word itself almost didn't apply. If there was even a one percent chance of terrorists getting a weapon of mass destruction – and there has been a small probability of such an occurrence for some time – the United States must now act as if it were a certainty." See Ron Suskind, *The One Percent Doctrine: Deep inside America's Pursuit of Its Enemies since 9/11* (New York: Simon & Schuster, 2006) 62.

⁶⁰⁹ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 5.

⁶¹⁰ Davis, "The War on Terrorism: Impact on Al Qaeda," 215.

The current US strategy in its struggle against global terrorism has in actuality undermined the effectiveness of NATO and the UN, both of which are critical to the real success of such a campaign.⁶¹¹ The disposition of the George W. Bush administration is itself of undoubted importance to its commitment to a global war on terror undertaken in large part by military means. However, the administration's Strategy also exhibits continuity with past US planning. The 2002 NSS amplified a preexisting tendency of US government planners to focus extensively on the military aspects of security. The preponderant role of the military CINCs has contributed to this tendency, as has an accepted representation of national security issues that is heavily military in practice.⁶¹² These facts have led some to conclude that not much improvement has been seen in national strategy formulation since the Goldwater-Nichols Act was passed, and formal NSS documents were mandated.⁶¹³

It is far from clear that preemptive use of force is a good choice for dealing with WMD threats.⁶¹⁴ Even those broadly supportive of preemptive use of force admit that such a prescription is fraught with pitfalls and will not necessarily be successful. Some would like to see changes to international law in order that such action might be legal and more legitimate.

It is impossible to know with certainty that a threatened or actual preemptive military strike will not in fact increase animosity towards the US, resulting in a more numerous and resolved number of enemies – and thus result in a more dire threat than the one

⁶¹¹ Ibid., 215-216.

⁶¹² James R. III Locher, "Has It Worked?: The Goldwater-Nichols Reorganization Act," *Naval War College Review* LIV, no. 4 (2001): 111.

⁶¹³ Ibid.

⁶¹⁴ Dan Reiter, "Preventive War and Its Alternatives: The Lessons of History," *Strategic Studies Institute* (2006). See also Dan Reiter, "Exploding the Powder Keg Myth: Preemptive Wars Almost Never Happen," *International Security* 20, no. 2 (1995).

initially acted against.⁶¹⁵ States sometimes intentionally attempt to create a sense of pressure and urgency in a confrontation, to demonstrate the seriousness of their commitment and in the hope of bringing about a quick resolution; however, this can prove to be a risky endeavor, as the very pressure that was hoped would move an adversary to quick capitulation or accommodation can actually provoke a preemptive attack on the part of the adversary.⁶¹⁶ There is perhaps something uniquely American about threat perception as it is manifested in the US. After the threat of defeat in World War II had passed, the US identified a new great threat in the form of the Soviet Union. In response to this looming and global threat, "[t]he nation was to be permanently prepared. America's interests and responsibilities were unrestricted and global".⁶¹⁷ Americans are willing to pay a high price for only a small amount of increased safety. For there is a real cost for trying to prepare for and eliminate any and every threat. If half a century ago the US was to be permanently prepared against communism, it seems now it is to be permanently prepared against terrorism – and according to NSS 2002, perhaps permanently acting.

In addition to this conceptual, strategic failing in terms of sustainability, current US policy falls short pragmatically as well. The security environment is not such that the current US strategy is sustainable in practical military terms. Ironically, this is because for every success the military has in eliminating a terrorist base of operations, it

⁶¹⁵ Philip Bobbitt, *Terror and Consent: The Wars for the Twenty-First Century*, 1st American ed. (New York: A.A. Knopf, 2008) 433-436. Bobbitt is careful to argue, however, that deciding that an act of preemption has made matters better, or worse, is a matter of judgment rather than certainty; and that the effects of such an act have to be measured against how the threat would have developed over time, rather than how the threat stood before preemptive action was taken. See Bobbitt, *Terror and Consent* 208-209.

⁶¹⁶ David E. Johnson, Karl P. Mueller, and William H. Taft, *Conventional Coercion across the Spectrum of Operations: The Utility of U.S. Military Forces in the Emerging Security Environment* (Santa Monica, CA: Rand, 2002) 22.

⁶¹⁷ Yergin, *Shattered Peace* 220.

significantly increases the difficulty in succeeding the next time, as one military planning expert has explained.⁶¹⁸

However detailed one's characterization of exceptional circumstances and environments, it does not necessarily follow that a policy response will be apt or sustainable. NSS 2002 signals a disposition – it does not commit the country to anything. It does not preempt judgment on particular issues. What it may do is ease legal constraints – or challenge them – to give more latitude of action to the US.

Although these conclusions appear sound at present, it is difficult to judge the proportionality, adequacy, and sustainability of the 2002 NSS definitively. Indeed, it may be impossible to do so in the absence of a sufficient body of action, which might develop over time. In addition, the international security environment is not free-standing from the international legal environment – to which we now turn.

⁶¹⁸ Arnel B. Enriquez, "The US National Security Strategy of 2002: A New Use-of-Force Doctrine?," *Air & Space Power Journal* (2004). Enriquez writes, "Furthermore, the NSS's doctrine on military strategy changes what civilian and military leaders used to agonize over. The NSS makes nonissues of such formerly sticky matters as whether or not the United States should use force at all and, if so, to what extent—at least for the terrorist cases. Leaders must now struggle with (1) how to find, fix, track, prioritize, and target threats against which the United States must use force and (2) how to apply force. The existence of rogue states as terrorist sponsors provided some level of localization of terrorists, which, in turn, made the task of identifying and targeting them somewhat easier. However, the US position, both in practice and as documented in the NSS, of armed intervention in rogue states is a double-edged sword. On the one hand, it forces the dispersion of terrorists, who then lose the benefits of state sponsorship. On the other, that same dispersion makes finding, fixing, tracking, and targeting them much more difficult, and, given the extent of today's global communications, it may only marginally affect their functional cohesion. The dilemma for the military is that it cannot ignore terrorists based in rogue states because of the great advantages state sponsorship provides them, but the resulting dispersion makes subsequent operations more difficult."

8.0 NSS 2002 as Exceptional In Terms of International Law

8.1 Preemptive Self-Defense: The Legal Context

There is a *prima facie* case that the 2002 NSS is exceptional in terms of international law. It rests on the fact that the US explicitly proclaims a right and an intention to use force to act preemptively against perceived threats – even if those actors it perceives as threatening have not yet attacked the US.⁶¹⁹ This appears to be in direct contradiction to the United Nations Charter, which is a negotiated agreement that stands as binding international law. Under Article 2 of the Charter, states agree to solve their disputes by peaceful means and to respect the physical and political sovereignty of all other states.⁶²⁰ As the UN is the premier international membership organization, its Charter is generally regarded as a cornerstone of international order. The stated willingness of the US to use force preemptively and unilaterally certainly appears to be at odds with international law – the UN Charter.

However, the US asserts that its intention to use force preemptively does have a basis in international law. First, the US argues that this legal basis pre-dates the UN Charter, since preemptive self-defense is recognized in customary international law: "For centuries, international law recognized that nations need not suffer an attack before they can lawfully take action to defend themselves against forces that present an imminent danger of attack. Legal scholars and international jurists often conditioned the legitimacy of preemption on the existence of an imminent threat — most often a visible

⁶¹⁹ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 15.

⁶²⁰ United Nations, "Charter of the United Nations," (1945). Article 2.4 states specifically, " All Members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state, or in any other manner inconsistent with the Purposes of the United Nations."

mobilization of armies, navies, and air forces preparing to attack."⁶²¹ Second, since the UN Charter allows for self-defense, preemptive force used for this purpose can credibly be argued as consistent with the Charter.

The next section begins with a consideration of international law, and how customary international law and codified international law are related. Codified law agreed between states is not the sole source of international law. The customary behavior of states, over time, can either challenge codified law or be regarded as having formal legal status for which the term "customary international law" is generally employed. The difficulty is that there is no universally agreed means by which to determine what is customary international law, and what is really a more limited pattern of state practice. For this reason, assertions that state custom have legal force are a particularly interesting and contentious source of legal debate. Typically, arguments mounted against assertions of customary international law are on the basis of inclusion, duration, and consistency. Although customary international law has not frequently been invoked to justify preemptive self-defense, it has nevertheless been a line of argumentation employed for another class of challenges to Article 2.4 – the humanitarian intervention debate. We will return to this after considering codified international law as it applies to preemptive self-defense.

⁶²¹ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 15.

8.2 Self-Defense under the UN Charter

Thinkers through the centuries have been sympathetic to states which have been seen to take forceful action in response to an initial attack leveled at them.⁶²² Although more difficult for a state to prove, as well as for others to ascertain, the notion of forcefully preempting an undeniable and imminent attack about to be leveled against it has also enjoyed a degree of acceptance, if not enthusiasm.

The inherent right of individuals, and states, to protect themselves and perhaps their very existence has long been regarded legitimate, when similar violent action would not be employed if they had not been attacked first. In our own time, self-defense is authorized under Article 51 of the UN Charter.⁶²³ Although self-defense might appear to be a precise concept, the nature of perceived threats has a powerful bearing on how states identify what merits defensive action. Often a state will cite self-defense as validating its decision to use force, even when the claim seems ill-fitting and third-party observers consider the claim as less than credible.⁶²⁴ Although the wording of the UN Charter has intensified scrutiny surrounding what might or might not constitute "self-defense", the propensity to characterize forceful action as defensive was in play long before 1945. In his study of Wilsonian use of force, Calhoun notes that self-defense (or the "use of force for protection" in Calhoun's formulation) was cited so often by Wilson that one must attempt to determine when it was truly a primary motivating factor, and when it was a secondary or lesser factor being used to invoke an air of legitimacy.⁶²⁵

⁶²² For example, the ecclesiastical scholar Raymond of Pennaforte viewed self-defense as always justified, even in the absence of sanction by church or sovereign: "it is always lawful to meet force with force"; see Maurice Hugh Keen, *The Laws of War in the Late Middle Ages*, Studies in Political History (London: Routledge & K. Paul, 1965) 67.

⁶²³ United Nations, "Charter of the United Nations."

⁶²⁴ Franck, *Recourse to Force* 112. See also Detter, *The Law of War* 86.

⁶²⁵ Calhoun, *Uses of Force* 12.

Response to Actual Armed Attack

The drafters of the UN Charter intended that the primary method of ensuring protection from aggression would be through collective action as decided upon by the UNSC. Self-defense was embedded in the Charter largely as a fallback measure in the event that members failed to take collective measures to defend a state under attack.⁶²⁶ Several reasons lie behind the need for this fallback. One is that the activation of a collective response lies with a political body. A United Nations collective security response to aggression requires UNSC recognition of a threat to the peace, and UNSC authorization of collective use of force.⁶²⁷ Another reason is that in the absence of a binding UNSC resolution there is no obligation on individual states to come to the aid of one under attack.⁶²⁸

Yet another reason to include such a fail-safe is the lack of a permanent law enforcement entity in the international system. By the time of the San Francisco conference in 1945, it was apparent that the standing forces mentioned in Article 43, meant to serve at the discretion of the UNSC, would not be established in the foreseeable future.⁶²⁹ The lack of standing forces, combined with the political element of UNSC identification and response to threats, made some sort of self-defense necessary and desirable.⁶³⁰

From the beginning, Article 51 contained a good deal of ambiguity in order to make it acceptable to states, with terms such as "'inherent right', 'self-defence' or 'armed attack'"

⁶²⁶ Franck, *Recourse to Force* 45.

⁶²⁷ *Ibid.* 46.

⁶²⁸ *Ibid.* New Zealand led an effort during the drafting to make such aid mandatory regardless of UNSC action, but was not successful.

⁶²⁹ *Ibid.* 48.

⁶³⁰ *Ibid.*

not finding definition in the Charter.⁶³¹ There are trade-offs, and some obvious consequences, arising from the ambiguity of Article 51, the failure to establish the standing forces called for in the Charter, and basing all collective security decisions with the UNSC. Yet, looked at in a positive light, making identification and response so dependent on the UNSC may be seen as "embed[ing] the centrality of politics" into UN collective security.⁶³²

Self-defense as allowed under the Charter is restricted to making a response to an armed attack. Even so, questions exist as to the extent to which Article 51 "limits the right of self-defence".⁶³³ Article 51 would seem to grant a relatively narrow right to self-defense, as it is allowed in response to an "armed attack". States may defend themselves in the absence of UNSC action; however, Article 51 limits the right to take defensive military action by permitting it only "until the Security Council has taken measures necessary to maintain international peace and security".⁶³⁴

Questions arise as to whether an action can unequivocally be self-defense, if it is not taken in immediate and direct response to an attack.⁶³⁵ If an actual armed attack has not occurred, there is a question as to whether a state can legitimately claim to be responding to "something closely analogous to an armed attack such as foreign subversion, or a massive, foreign-induced flow of refugees", as a number have done.⁶³⁶

⁶³¹ Ibid. 51. China proposed a detailed definition of 'aggression' which included acts of support for sub-state or insurgent groups, but it was not adopted.

⁶³² Ibid. 46.

⁶³³ Detter, *The Law of War* 85.

⁶³⁴ United Nations, "Charter of the United Nations."

⁶³⁵ For instance, the US attacked Iranian oil platforms after Iran struck a tanker registered in the US with a missile; in Detter's opinion, this action would really be classed as a reprisal (which may well be prohibited by the Charter, although perhaps not in an absolute sense) rather than self-defense, since it was carried out after the Iranian attack had ended. While it seems unreasonable to expect states to always exercise their right of self-defense within a set number of hours, the amount of time that has passed between the initial incident and the response would appear to be an issue; see Detter, *The Law of War* 86.

⁶³⁶ Franck, *Recourse to Force* 112.

Infrequently, rather than couching its justification in terms of self-defense, a state may cite "extreme necessity" in the face of inaction by others; this is what is known as "self-help".⁶³⁷ In the few uses of force that have been explicitly asserted as self-help, the international community has seemed willing to consider each on a case-by-case basis, and has sometimes decided to refrain from taking action against the offending state.⁶³⁸ All justifications for using force, including varieties of self-defense, "turn on the facts"; each will have to be judged, by other states and the UNSC, on the particular circumstances that surround and inform each case.⁶³⁹

Overall, over the years, what constitutes allowable self-defense in terms of the Charter has been adapted and expanded.⁶⁴⁰ Franck views these changes as occurring "through institutional practice"; by how the UN system has viewed, interpreted, and responded to acts of force claimed to have been made in self-defense.⁶⁴¹ Debate continues as to how exactly to define when the right of self-defense might legitimately be invoked.⁶⁴² Franck writes that the drafters of the Charter may have been somewhat short-sighted in their intent of limiting self-defense to situations involving armed attacks. This is due to advances in nuclear weapons and missile technology, as well as situations involving surrogate states, rogue states, state sponsors of terrorism, and sub-state terrorist groups – all of which increase the likelihood that a real threat might not involve a traditional armed attack by the forces of one state on the territory of another.⁶⁴³

⁶³⁷ Ibid.

⁶³⁸ Ibid.

⁶³⁹ Detter, *The Law of War* 86.

⁶⁴⁰ Franck, *Recourse to Force* 45.

⁶⁴¹ Ibid.

⁶⁴² Detter, *The Law of War* 85.

⁶⁴³ Franck, *Recourse to Force* 50. Franck notes that the Spanish Civil War just before World War II had provided a surrogate situation for outside forces to take part in, and so the issue should have been fresh in the minds of the drafters.

Response to Imminent Attack (Preemption)

There exists a degree of inconsistency in the literature with regard to terms dealing with military action taken in preemptive self-defense. The words "preemptive", "anticipatory", and "preventive" are sometimes used interchangeably, or to identify different types of forceful action. For the purposes of this work, "anticipatory" will apply to *any* forceful action taken by a state before an attack has been launched against it. "Preemptive" and "preventive" actions will both be considered as anticipatory. Preemptive self-defense can be defined as a state taking action on the basis of compelling evidence that an attack is about to be launched against it. Preventive action can be defined as a state resorting to force against another in the hope of averting or nullifying a future attack, but is not in response to a threat that is clearly imminent in the traditional understanding of the term, such as troops massing on a border.

The traditional legal understanding of preemptive self-defense is based on US Secretary of State Daniel Webster's formulation, which was devised in the wake of the *Caroline* case of 1837. This involved a forceful exchange between the US and Britain in which a US ship was destroyed and two US citizens were killed at Niagara Falls. Webster subsequently wrote that in order for preemptive action to be justifiable as self-defense, it must be taken in response to a threat that is "instant, overwhelming, leaving no choice of means, and no moment for deliberation".⁶⁴⁴ Webster's formulation was used by prosecutors in the Nuremberg Tribunal after World War II. The UNGA voted to affirm

⁶⁴⁴ B. Welling Hall, Terrorist Attacks on the World Trade Center and the Pentagon: Addendum Relating to Self-Defense (September) (ASIL Insights, American Society of International Law, 2001 [cited 15 Feb 2004]); available from <http://www.asil.org/insights/insigh77.htm>. The destruction of the *Caroline* occurred in 1837; Webster's formulation forms part of the correspondence between himself and the British negotiator Lord Ashburton in 1842. See the Avalon Project at <http://www.yale.edu/lawweb/avalon/diplomacy/britain/br-1842d.htm>.

the Tribunal's judgment, and is thus seen as legitimizing Webster's characterization.⁶⁴⁵

However, it is important to point out that a consensus on the legality of preemption does not exist. A powerful legal argument has been made that since the UN Charter supercedes previous customary law, that the use of force in any anticipatory manner is prohibited by Article 51.⁶⁴⁶

Even prior to the 11 September 2001 attacks in the US, it was claimed that the use of preemptive action was becoming increasingly frequent.⁶⁴⁷ The notion of preemptive military action has always been fraught with questions of how to ascertain if a compelling threat really exists, and how to gauge whether a preemptive action is proportional to the perceived threat.⁶⁴⁸ Even if one accepts that a state may sometimes legitimately act preemptively in the case of a great and imminent threat, it is still extremely difficult to judge specific instances. One can see that determining the "imminence" of a threat, the degree of the threat, and the proper and proportionate response to it, can each be difficult to ascertain and gain objective agreement on.

Preemptive action entails the use of force, and as such is proscribed by Article 2.4 of the Charter; this validates the presumption that such action is unlawful. The particular details of every situation must be weighed to ascertain the existence and degree of threat that might be present; however, what must also be considered is the character and past action of the state taking (or wishing to take) preemptive action.⁶⁴⁹ Even if some sort of limited right of self-defense on preemptive terms exists, it has been argued that a state

⁶⁴⁵ Ibid.[cited date as above].

⁶⁴⁶ Albrecht Randelzhofer, "Article 51," in *The Charter of the United Nations: A Commentary*, ed. Bruno Simma (Oxford: Oxford University Press, 2002), 803.

⁶⁴⁷ Dettner, *The Law of War* 87. For example, Israel has attacked positions outside its borders, and NATO threatened to attack Iraq over its WMD possession and capabilities. Dettner perceived a need for greater scholarly attention to preemption – its effects on international stability and international law, as well as its legality – before 2001.

⁶⁴⁸ Ibid. 86.

⁶⁴⁹ Ibid. 86-87.

which has exhibited aggressive action in the past, or used the excuse of preemption in the past without general agreement of an actual imminent threat existing, has in effect forfeited its right due to irresponsible, illegal behavior.⁶⁵⁰

Protection of Nationals Abroad

In the past, states have attempted to characterize threats to their nationals abroad as threats to the state as well. Such attempts pre-date the UN Charter. For example in the early 1900s, by often citing the protection of US "interests, citizens, or ideals, Woodrow Wilson was grasping for the legitimacy implicit in the assertion".⁶⁵¹ In fact, other reasons were also at play for US actions at that time, and were sometimes more important to the decision to intervene. Without discounting states' concern for the welfare of their citizens abroad, the plight of those individuals can be, and has been, a useful legitimating device for both national and international purposes. Some legal scholars view the protection of nationals abroad to be quite legitimate – that both citizens and land are facets of a state's existence, and that an attack on either would justify the invocation of self-defense.⁶⁵² The opposing view is that since ordinary nationals abroad are not functioning as agents of their state, or in the territory of their state, that invoking self-defense on their behalf is not allowable.⁶⁵³ An absolute application of this line of thinking – that attacks on a state's citizens abroad may never constitute an attack on the state itself – appears unreasonable to some.⁶⁵⁴ However, this is countered by the argument that since attacks on citizens abroad can not possibly

⁶⁵⁰ Ibid. As an example of this, Detter cites the fact that the UNSC disapproved of South Africa's incursions into Angola, although such action might have found more acceptance had South Africa been considered to be a reliable, law-abiding entity.

⁶⁵¹ Calhoun, *Uses of Force* 12.

⁶⁵² Yoram Dinstein, *War, Aggression, and Self-Defense*, 3rd ed. (Cambridge [England]; New York: Cambridge University Press, 2001) 181. Dinstein cites Christopher Greenwood as a proponent of this particular line of thinking, and provides a useful overall summary of this legal disagreement.

⁶⁵³ Randelzhofer, "Article 51," 798.

⁶⁵⁴ Dinstein, *War, Aggression, and Self-Defense* 181.

threaten the very existence of a state, that resort to forceful self-defense is not called for or allowed.⁶⁵⁵ As with preemption, a consensus does not exist regarding the legality of using force for the protection of nationals abroad. The right of states to protect nationals abroad is thus disputed, principally due to the possibility of using such a right as a pretext for aggression.

Responding to Terrorist Organizations and Sponsoring States

A single, generally agreed upon definition of terrorism does not exist. Of course, terrorism is a "technique" rather than an agent or entity, and as such it may be impossible to fight it, or eradicate it.⁶⁵⁶ This means that attempts to minimize terror focus on the entities who utilize it as a method. The Pentagon's definition of terrorism is limited to non-state actors; this would include pro-democracy groups fighting an insurgency against a repressive regime, and exclude state violence and use of terror, such as the USSR under Stalin, Cambodia under Pol Pot, or Iraq under Saddam Hussein.⁶⁵⁷ It is important to note that often what determines whether an event will be counted as terrorism is the evaluation and judgment of other states according to their particular circumstances and interests. Of particular pertinence are the nature of the state being opposed, the latitude for political action open to opposition groups, and "the moral situation in which the violence occurs".⁶⁵⁸

Basic agreement on what constitutes "aggression" has remained elusive during state-level discussions concerning the crime of aggression and the respective roles of the

⁶⁵⁵ Randelzhofer, "Article 51," 798.

⁶⁵⁶ Record, Dark Victory 48.

⁶⁵⁷ Ibid. 46.

⁶⁵⁸ Ibid. Record attributes this phrase to Conor Gearty.

UNSC and the International Criminal Court.⁶⁵⁹ However, states are increasingly considered justified in responding to terrorist attacks with the use of force in self-defense. Some states have argued in the past that such self-defense includes the right to strike at "territory from which the attackers originate".⁶⁶⁰ A legal consensus has now begun to emerge that terrorist attacks may be considered "armed attacks" as set out in Article 51.⁶⁶¹ This may indicate an evolving understanding or interpretation of the law. In 1986, the ICJ ruled that providing logistical support to groups who carried out attacks on another state did not amount to an armed attack. However, the ICJ also held that an armed attack that triggers the right to self-defense would not have to take the form of regular military forces crossing a border.⁶⁶² Thus, in determining the degree to which the support or harboring of groups may amount to an armed attack, it appears that the degree to which the groups operate on behalf of, or as organs of, the harboring state are an issue.⁶⁶³ More recently, in the wake of the attacks of 11 September 2001, the UN Security Council recognized the right of the US and its allies to use force in self-defense; the Council also asserted that "those responsible for aiding, supporting or harbouring the perpetrators, organizers and sponsors of these acts" were accountable for the attacks.⁶⁶⁴ The nascent consensus on the legitimacy of using force against states who harbor terrorists is still somewhat controversial, and the details of each case would appear to be important.⁶⁶⁵

⁶⁵⁹ Anja Seibert-Fohr, "The Crime of Aggression: Adding a Definition to the Rome Statute of the ICC," ASIL Insight 12, no. 24 (2008).

⁶⁶⁰ Franck, *Recourse to Force* 64.

⁶⁶¹ Ibid.

⁶⁶² International Court of Justice, "Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua V. United States of America) (Merits): Judgment of 27 June 1986 (Summary)," (1986). The ICJ ruled in part that "... an 'armed attack' ... is to be understood as meaning not merely action by regular armed forces across an international border, but also the sending by a State of armed bands on to the territory of another State, if such an operation, because of its scale and effects, would have been classified as an armed attack had it been carried out by regular armed forces".

⁶⁶³ Dinstein, *War, Aggression, and Self-Defense* 183.

⁶⁶⁴ UNSC, Resolution 1368 Adopted on 12 Sep [cited date as above]. See also UNSC, Resolution 1373 Adopted on 28 Sep [cited date as above].

⁶⁶⁵ Franck, *Recourse to Force* 66. For example, in some cases the UNSC has explicitly ruled out a right to self-defense, such as in limiting Rwanda's response to insurgents operating out of the territory of another state.

Recent statements and actions taken by the US government have emphasized the actual and potential intersection of terrorist organizations and "rogue states" which display a general antipathy toward the US, and operate outside of the diplomatic fold.⁶⁶⁶ Terrorist organizations and rogue states often exhibit some common characteristics such as a hostility to the existing international order (including its legal strictures), the US as the preeminent power in that order, and Israel (if the organization and state share a regional or ideological focus).⁶⁶⁷ Further, the fact that terrorist organizations and rogue states share a similar international isolation sometimes leads to communication, cooperation, and contact between the two; but contact and cooperation should be viewed as very dependent on particular circumstances, rather than a formal or permanent alliance.⁶⁶⁸ Thus, while there appears to be a current tendency to assume that most sub-state groups that utilize terrorist tactics have or will attract the support of a state sponsor, this is not necessarily the case.

Preventive Self-Defense (Responding to a Threat that is not Imminent)

It has been pointed out by Michael Walzer that the distinction between preemption and prevention is becoming increasingly difficult to determine due to the possibility of WMD being targeted at civilian population centers by sub-state groups.⁶⁶⁹ However, the distinction between the two is not yet only nominal. Preemptive action entails the response to an attack that is about to occur – "imminent" in the classical formulation

⁶⁶⁶ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 13-15. See also United States, National Strategy for Combating Terrorism 14 Feb 2003 [cited 19 Aug 2005]; available from <http://www.whitehouse.gov/news/releases/2003/02/20030214-7.html>.

⁶⁶⁷ Record, Dark Victory 49.

⁶⁶⁸ Ibid.

⁶⁶⁹ Walzer, "No Strikes," 21.

made by Webster in the 1837 *Caroline* dispute. Preventive action is taken proactively in the belief that a future threat will be averted. Interestingly, when the negotiations surrounding the drafting of the UN Charter were taking place, it was US representatives who led efforts to include the provision "if an armed attack occurs" in Article 51; this was a deliberate attempt to prevent uses of force taken for reasons of anticipatory self-defense.⁶⁷⁰

This kind of preventive self-defense has been used by states in the past as a pretense for other actions, particularly as an excuse for aggressive action against others.⁶⁷¹ It is possible that such aggressive action may appear to the initiating state as justified, or it may be a cruder form of *realpolitik*. In either case, there is ample reason to question the motives of a state which unilaterally determines a country to be "an instrument for a future attack", and so strikes it first in order "to prevent the possibility of such an attack taking place".⁶⁷²

Although arguments for, and cases of, preventive self-defense are rare in post 1945 international affairs, Israel's 1981 bombing of an Iraqi nuclear facility indicates the degree to which legal formulations of self defense enshrined in the Charter can be severely tested, and not merely contested.⁶⁷³ Whatever one makes of the political and legal consequences of the Israeli action, it is not difficult to comprehend that a state

⁶⁷⁰ Franck, *Recourse to Force* 50.

⁶⁷¹ Detter, *The Law of War* 86.

⁶⁷² Adolf Hitler, *The British War Bluebook No. 20: Speech by Herr Hitler at Wilhelmshaven on April 1, 1939*. (The Avalon Project at Yale Law School, 1939 [cited 22 Sep 2005]); available from <http://www.yale.edu/lawweb/avalon/wwii/bluebook/blbk20.htm>. Hitler said in respect of Czechoslovakia, "We would, nevertheless, have had nothing against an independent Czech State if this State had not, firstly, oppressed Germans, and, secondly, if it had not been an instrument for a future attack on Germany. But when a former French Air Minister writes in a newspaper that it is the task of this Czechia, because of her splendid geographical position, to strike at Germany's industry by air attacks in a war, then one will understand that it is not without interest to us, and that we drew certain conclusions therefrom. It would have been a matter for England and France to defend this air base. It was our affair, at any rate, to prevent the possibility of such an attack taking place."

⁶⁷³ See Bennett Ramberg, "Attacks on Nuclear Reactors: The Implications of Israel's Strike on Osiraq," *Political Science Quarterly* 97, no. 4 (1982). See also Anthony D'Amato, "Israel's Air Strike Upon the Iraqi Nuclear Reactor," *American Journal of International Law* 77, no. 3 (1983).

which perceives its very existence to be imperiled by developments in another state would respond proactively and deal with the legal and political consequences subsequently. Violations of the law that are circumstantially exceptional and anomalous in practice pose less of a threat to international legal order than repeated actions by one or more states. Israel's more recent bombing of Syria may yet come to have serious legal and political ramifications.⁶⁷⁴

8.3 Self-Defense and Customary International Law

Although there is no formal procedure for determining which customs count as customary international law, the importance of *opinio juris* is essential. In the case of nation-states, adherence to custom is not imposed by an external or superior power; however, states' adherence to custom may be formalized and imposed on its own citizens. Moreover, while not *forced* to comply with custom, custom can accrue a consistency and authority by dint of which states feel *obligated* to comply. This is *opinio juris* – the felt obligation on the part of states to comply with a practice perceived to be the rule of law. In combination with codified international law, it is this obligation – and the potential reactions from peers if it is abrogated – that informs and conditions international order.

The international legal system has two sources: codified law, which is comprised of bilateral and multilateral treaties; and general international law, i.e. customary international law.⁶⁷⁵ There are two crucial components involved when a practice is

⁶⁷⁴ See Seymour M. Hersh, "A Strike in the Dark: What Did Israel Bomb in Syria?," New Yorker (2008). See also Ewen MacAskill, "US Claims North Korean Link to Israeli Bombing of Syria," Guardian, 24 Apr 2008.

⁶⁷⁵ Rosalyn Higgins, The Development of International Law through the Political Organs of the United Nations (London: Oxford University Press, 1963) 1-2.

considered to be customary international law: the practice must be generally accepted and adhered to; and the practice must be perceived as a duty – that is, as legal obligation.⁶⁷⁶ The same criteria inform the rulings of the ICJ.⁶⁷⁷ As Higgins puts it, customary international law is "customary rules which are evidenced by the practice of states".⁶⁷⁸

It is notable that in the years following the creation of the UN, newly independent non-Western states perceived that what counted as "customary" in the West was at variance to what was "customary" to them: "The vast increase in treaty law after 1945 is not only due to the increased number of states, but as a trend also reflects the inherent lack of faith of new states, which preferred to subscribe to international law rules only if they had played a part in their formulation."⁶⁷⁹ The applicability of customary law is not conditional on the date which a state was admitted to the UN. This is true regardless of the date a state was admitted to the organization. Customary international law evolves continuously; and this usually occurs incrementally rather than in big shifts.⁶⁸⁰ It is difficult to ascertain "the point at which a repeated practice has hardened into a rule of

⁶⁷⁶ Mark E. Villiger, *Customary International Law and Treaties: A Manual on the Theory and Practice of the Interrelation of Sources*, Fully rev. 2nd ed., *Developments in International Law*; V. 28 (London: Kluwer Law International, 1997) 47.

⁶⁷⁷ International Court of Justice, "Case Concerning the Military and Paramilitary Activities in and against Nicaragua (Nicaragua V. United States of America) (Merits): Judgment of 27 June 1986 (Summary)." Other relevant ICJ judgments include the 1996 *Advisory Opinion on Nuclear Weapons*, the 1950 *Asylum* case (Villiger points out the ICJ ruled that adherence had to be as a result of felt duty, rather than other reasons such as "political expediency"), and the 1969 *North Sea* case.

⁶⁷⁸ Higgins, *The Development of International Law* 1. For a consideration of the possibility that the UN General Assembly may possess a sort of international "limited legislative competence" in terms of the creation of international law – as well as the idea that legal obligation may exist in the absence of state consent – see Richard A. Falk, "On the Quasi-Legislative Competence of the General Assembly," *American Journal of International Law* 60, no. 4 (1966).

⁶⁷⁹ Eibe Riedel, "Standards and Sources: Farewell to the Exclusivity of the Sources Triad in International Law?," *European Journal of International Law* 2, no. 2 (1991): 61.

⁶⁸⁰ Michael Byers, *Custom, Power and the Power of Rules: International Relations and Customary International Law* (Cambridge: Cambridge University Press, 1999) 5.

law".⁶⁸¹ Thus customary international law is a normative structure in perpetual flux that informs or regulates state behavior.⁶⁸²

The mere existence of *opinio juris* has been criticized as inadequate in explaining how customary law is first formed, then modified. The reason for this is that consensus on the obligatory character of any custom emerges over time. It is therefore the case that what comes to be accepted as customary international law most often begins as more limited exercises in mutual self-interest.

In other words, customary law arises not solely from established practice, but from activity engaged in by some states, that comes to be reciprocated by other states. These other states may expect their peers to act reciprocally towards them as well, and over time the practice that was initially confined to only some states hardens into a rule of customary international law.⁶⁸³ In such a conception, the complex interplay between the majority of states also tempers the ability of powerful ones to impose their own norms.

This idea is put succinctly by Michael Byers, who sees it as challenging traditional

Realist assumptions:

[R]ules of customary international law are the result of an interactive and evolving process whereby different States contribute, in differing ways and degrees, to the ongoing development, maintenance and change of generally applicable rules. However, as part of that interactive and evolving process, the frequently unequal contributions of States occur within, and are qualified by, a structured system of those States' own creation. Social inequality thus interacts with sovereign equality in what amounts to a social process of self-regulation.⁶⁸⁴

⁶⁸¹ Higgins, *The Development of International Law* 5-6.

⁶⁸² Byers, *Custom, Power and the Power of Rules* 4.

⁶⁸³ Villiger, *Customary International Law and Treaties* 53.

⁶⁸⁴ Byers, *Custom, Power and the Power of Rules* 216.

Some legal scholars contend that customary law can be created in an instant under certain circumstances, for example as the result of unanimous UNGA resolutions. Anthony D'Amato argues that new customary law can come into being "instantly" when consensus has been reached between states on the form of the new rule.⁶⁸⁵ The emphasis in this argument is on the importance of state practice rather than UN resolutions.⁶⁸⁶ For example, when the conflict between two states finds resolution – through negotiation, war, or another process – that resolution is an act of consensus between them that is in essence the "birth" of a rule of customary law. While distinct, D'Amato's argument is closely related to arguments that customary international law may be created instantly by way of UNGA declarations.⁶⁸⁷

From Rosalyn Higgins' viewpoint, the practice of states includes their voting records in the UN and their publicly stated views. State declarations regarding perceived customary international law are themselves evidence of custom, and may serve to further the development of that law. While UNGA resolutions do not of themselves amount to binding customary international law, "as a whole, taken as indications of a general customary law, [they] undoubtedly provide a rich source of evidence."⁶⁸⁸ A distinction must be drawn between custom and usage, for while the growth of a practice may be seen in terms of usage, that practice can not be considered customary unless it arises from a sense of legal obligation. The difficulty in separating usage from custom is apparent when attempting to pinpoint when a practice has become customary international law.⁶⁸⁹

⁶⁸⁵ Anthony D'Amato, "Customary International Law: A Reformulation," *International Legal Theory* 4 (1998).

⁶⁸⁶ Anthony D'Amato, "Trashing Customary International Law," *American Journal of International Law* 81, no. 1 (1987).

⁶⁸⁷ Madeline Morris, *High Crimes and Misconceptions: The ICC and Non-Party States 1999* [cited 03 Nov 2005]; available from http://www.law.duke.edu/fac/morris/morris.htm#_ftn1.

⁶⁸⁸ Higgins, *The Development of International Law* 5. See also 2-4.

⁶⁸⁹ *Ibid.* 2, 6.

Drafting processes undertaken as part of the work of the UN have helped to ascertain *opinio juris* through the record of statements or procedural voting. However, such drafting processes have also created uncertainty, due to the sheer number and variety of statements made by states in protracted negotiations.⁶⁹⁰ The ambiguities or rhetorical positions and instances of contestation over fundamentals further cloud the issue. And while weak states may resist novel practices undertaken by powerful states by refusing to acknowledge their validity, the practice of powerful states may have such inertia that weaker states will likely follow their lead.

Written rules, the increase in the number of forums where they are negotiated – at international conferences as well as in the UN – and the increased access to information around the world, may all contribute to an acceleration in the creation of customary law.⁶⁹¹ Relatedly, the pace of change in international society apparent in the years since the formation of the UN may have shortened the time necessary for new custom to develop.⁶⁹² The UNGA, as the most representative UN body, provides a valuable forum for identifying and expressing consensus among nations about perceived and enunciated customary obligations. The ICJ, as the UN body whose primary focus is international law, provides other means. Through its judgments, it is able to cite and reinforce what it determines to be customary practice. Concurrently, its judgments have bolstered past practice, or have contributed to changes in custom through its acknowledgment of changed state practice.

Because international law generally lacks enforcement mechanisms, the principle of reciprocity is a key reason why both codified and customary international law are adhered to. Just as individual states expect others to follow commonly agreed rules,

⁶⁹⁰ Villiger, Customary International Law and Treaties 51.

⁶⁹¹ Ibid. 184.

⁶⁹² Higgins, The Development of International Law 6.

they also reasonably expect that their breaking of rules will result in reciprocal responses, which may well not be in their interest.⁶⁹³ The principle of reciprocity also holds true for international organizations as well as states; Higgins offers the UN as an example: were the UN to ignore customary international law, its ability to interact with states and offer credible mediation would be lessened.⁶⁹⁴

Although most states obey most international laws most of the time, they do violate international law when the stakes are high, when the cost-benefit analysis is favorable, or when they feel themselves or their fundamental interests threatened. Few violations of international law, however egregious, are committed with the intention of offering a fundamental challenge to the rule of law more generally. The US and the UK went to strenuous lengths to forward a legal justification for the 2003 invasion of Iraq, and have subsequently maintained its legality, even in the face of international opprobrium.

Violations of international law which contest one or more of its principles and expose tensions between its purposes are particularly interesting. The humanitarian intervention debate is one of these. It is particularly compelling in that it contests the legal prohibition on the non-sanctioned use of force, as enshrined in the UN Charter.

8.4 The Humanitarian Intervention Debate

J.L. Holzgrefe and Robert O. Keohane have defined "humanitarian intervention" as "the threat or use of force across state borders by a state (or group of states) aimed at preventing or ending widespread and grave violations of the fundamental human rights of individuals other than its own citizens, without the permission of the state within

⁶⁹³ Ibid. 8.

⁶⁹⁴ Ibid.

whose territory force is applied".⁶⁹⁵ Unsanctioned humanitarian intervention comes into direct conflict with the prohibition on the use of force contained in the UN Charter. Some have argued that a customary legal right to undertake humanitarian interventions exists. This takes two forms. The first is that unsanctioned humanitarian intervention is a form of self-help that pre-dates the Charter and is still recognized as an "inherent right of self defense". The second is that a new norm has emerged since 1945 that has modified Charter law.⁶⁹⁶ However, it is important to note that the International Court of Justice has generally emphasized the principle of non-intervention when considering the unsanctioned use of force by states.⁶⁹⁷ Notably, the UNGA has likewise favored the principle of non-intervention in its declarations, which are an important source for determining customary international law.⁶⁹⁸ As typically portrayed, the humanitarian intervention debate posits a moral imperative against legal prohibition, here characterized by former UN Secretary General Kofi Annan:

To those for whom the greatest threat to the future of international order is the use of force in the absence of a Security Council mandate, one might say: leave Kosovo aside for a moment, and think about Rwanda. Imagine for one moment that, in those dark days and hours leading up to the genocide, there had been a coalition of states ready and willing to act in defence of the Tutsi population, but the council had refused or delayed giving the green light. Should such a coalition then have stood idly by while the horror unfolded?⁶⁹⁹

However, Annan was also quick to point out the risks entailed in the contravention of the cornerstone of post-1945 international order: Article 2.4 of the UN Charter:

⁶⁹⁵ J. L. Holzgrefe, "The Humanitarian Intervention Debate," in *Humanitarian Intervention: Ethical, Legal, and Political Dilemmas*, ed. J. L. Holzgrefe and Robert O. Keohane (Cambridge; New York: Cambridge University Press, 2003), 18.

⁶⁹⁶ Simon Chesterman, *Just War or Just Peace?: Humanitarian Intervention and International Law* (Oxford; New York: Oxford University Press, 2001) 53.

⁶⁹⁷ The ICJ has ruled in the *Corfu Channel* and *Nicaragua* cases that preference should be given to a general principle of non-intervention. In *Corfu* the ICJ ruled that the UK did not have a right to violate the waters of Albania in order to sweep for mines that had damaged two navy ships; in *Nicaragua* the ICJ cited *Corfu* as regards the principle of non-intervention, and is viewed as perhaps laying to rest any ambiguities with the wording of *Corfu*; see *Ibid*.

⁶⁹⁸ Higgins, *The Development of International Law*.

⁶⁹⁹ Kofi A. Annan, "Two Concepts of Sovereignty," *The Economist* (1999).

To those for whom the Kosovo action heralded a new era when states and groups of states can take military action outside the established mechanisms for enforcing international law, one might equally ask: Is there not a danger of such interventions undermining the imperfect, yet resilient, security system created after the second world war, and of setting dangerous precedents for future interventions without a clear criterion to decide who might invoke these precedents and in what circumstances? Nothing in the UN charter precludes a recognition that there are rights beyond borders. What the charter does say is that "armed force shall not be used, save in the common interest." But what is that common interest? Who shall define it? Who shall defend it? Under whose authority? And with what means of intervention? In seeking answers to these monumental questions, I see four aspects of intervention which need to be considered with special care.⁷⁰⁰

What Annan's description evinces, is that advocates and opponents alike recognize that it is a matter of serious legal and political contestation, and not merely either a disposition dismissive of the law or one entailing rigid or unthinking adherence to it. Much the same can be said about the contestation over preemptive self-defense: NSS 2002 is by no means dismissive of the UN Charter or international law more generally; the issue engages the legal foundations of international order; and there is little denying that the stakes for international security posed by a combination of terrorism and WMD could scarcely be higher.

8.5 Legal Challenges as Developmental

Both an asserted right of states to undertake humanitarian intervention, and the asserted right of the US to engage in preemptive self-defense, offer an apparent challenge to the fundamental of law based international order, Article 2.4 of the UN Charter. In fairness, both positions evince disposition rather than defiance, in other words signaling an intention that under certain circumstances the states in question will not conform to the legal strictures of Article 2.4. The assertion of a right to preemptive self-defense by the

⁷⁰⁰ Ibid.

US has the stronger character in that it is publicly proclaimed policy, where as the largest part of the humanitarian intervention debate is conducted along abstract lines, looking back to actual cases and forward to hypothetical ones. But neither theme can be relegated to discreet instances of lawbreaking, past or possible. The nature and extent of the debates they have inspired is greatly reinforced by existential developments of strategic and/or moral importance of the highest order. Such developments modulate the character of the challenge. In other words, they are not a challenge to the rule of law but to the compass and effectiveness of a specific law or laws.

In this regard, it is noteworthy that NSS 2002 is careful to recognize the danger of a wholesale retreat from routine adherence to Article 2.4: "[t]he United States will not use force in all cases to preempt emerging threats, nor should nations use preemption as a pretext for aggression."⁷⁰¹ Of course, the preemption aspects of NSS 2002 are not normative in intent, but essentially self-interested. Nevertheless, state actions taken for proclaimed security reasons have normative consequences, as do all state actions – particularly when they are at variance with codified international law. There is no more compelling illustration of this than the Report of the International Commission on Intervention and State Sovereignty (ICISS).⁷⁰²

The Responsibility to Protect emphasizes historical instances of humanitarian intervention as a developmental pattern, it reconceptualizes a legal concept (sovereignty), and presents a call to action linking moral imperative to political obligation. Although it does not directly assert a right of states to undertake humanitarian intervention, it addresses the legal obstacle of unsanctioned humanitarian

⁷⁰¹ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," 15.

⁷⁰² International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty* (Ottawa: International Development Research Centre, 2001).

intervention by declaring that the legal quality of sovereignty is conditional rather than absolute. The ICISS attempts to create a normative climate in which not only will credible instances of humanitarian intervention be seen as acceptable, but also an altered understanding of the purpose of Article 2.4 which makes it more consistent with the human rights purposes of the Charter without undermining its order creating quality.

The ICISS report was itself a consolidation of legal, political, and academic debate both practical and theoretical. For example, the Independent International Commission on Kosovo characterized the 1999 intervention in that country as "illegal but legitimate".⁷⁰³ Although unambiguous cases of humanitarian intervention and of preemptive self-defense have both been rare, the former have been distinguished by the fact that a widely shared moral expectation and not merely the self interested impulses of states are at least on occasion at variance with prohibitive law – hence an illegal act of considerable magnitude characterized as legitimate. The aftershock of our failure to protect Rwandans in 1994 is arguably in excess of any lego-political shock that might have followed any illegal humanitarian intervention in that instance. To date, by contrast, instances of preemptive self-defense have been lego-political shocks that the international community has absorbed, with little normative appeal and scarce international support.

If hitherto any legal argument for preemptive self-defense had to be circumstantial, there is now a plausible case that the potential for a terrorist WMD attack requires preemptive self-defense as a ready disposition rather than as a matter of protracted deliberation. After all, there is nothing in the UN Charter that requires states to subject themselves to reckless self-endangerment. Nevertheless, the enactment and enforcement

⁷⁰³ Independent International Commission on Kosovo, *The Kosovo Report: Conflict, International Response, Lessons Learned* (New York: Oxford University Press, 2000) 3.

of international law takes place in a political arena. So, it is unlikely that the US assertion of its own right to preemptive self defense will forever remain freestanding from the perceptions and dispositions of other states, particularly when the threats which stand as its justification are global in nature and extent. If a terrorist WMD outrage is indeed plausible, the broader implications of a right to preemptive self-defense are not diminished as a consequence. It is to these broader implications that we now turn.

9.0 Conclusions and Research Implications

Having examined the possible consequences of NSS 2002, it is now necessary to return to the research question: is the 2002 National Security Strategy of the United States exceptional in its formulation and implications? The question of exceptionality (exceptional to whom? exceptional with regard to what?) had to be broken down. The question of exceptionality, then, was broadly divided into two sections. The first section dealt with internal exceptionality, in terms of planning and disposition, in the US. The second section dealt with external exceptionality in terms of possible consequences: to the area of the threat of force in international affairs; to the changing security environment; and to the integrity of a law-based international order.

This division aided in demarcating how NSS 2002 might be exceptional in US-specific policymaking terms, from how it might be exceptional in broader terms outside the US. In structuring the dissertation this way, the "internal" and "external" sections also aide in laying out the grounds that explain why the research question is worthy of investigation. For example, although there is a *prima facie* case that NSS 2002 offers a fundamental challenge to the rule of law, Chapters One through Five establish the rationale for looking into this. This section effectively provides a rationale for determining what NSS 2002 should be measured against when assessing its exceptionality. It is useful to briefly review this section here.

Chapter One discussed what national security means in general, and focused on the US in particular – including the approach the US has taken to national security since the end of World War II. The particular US national security objectives that were brought about by changes to the international system were considered; then the particular

national security objectives that were occasioned by changes within the international system were touched upon. Chapter Two explored the national security structures and processes that the US has intentionally developed or that have grown up around US needs, including planning and policymaking processes and appropriations processes. Chapter Three considered NSS reports. The post-1945 tradition of national security pronouncements made by US Presidents, the modern NSS reports that Presidents are mandated to produce, and the place of the NSS as a tool for forming and announcing policy (and its place as a product of compromise and negotiation) were then explored. In Chapter Four, the various facets of the NSS issued by the administration in September 2002 were presented. Chapter Five reviewed the reactions to the release of NSS 2002, with particular focus on those reactions enunciated before the US invasion of Iraq, after which discussion of preemptive self-defense took on a less document-specific character.

NSS 2002 identified threats which were perceived as revolutionary, and offered a response to meet them. Possible consequences of this proposed US response were considered in three key areas in Chapters Six, Seven and Eight: in terms of the threat of force in international affairs, the changed security environment, and international law. Chapter Six reviewed the use and threat of force in international affairs. Chapter Seven investigated the international security environment in order to assess whether a stated preference for preemptive force enhances US security in dealing with the threatening features of that environment. Chapter Eight explored the *prima facie* case that NSS 2002 offers a direct challenge to international law, in light of the fact that legal challenges can themselves be developmental.

Overall it is now apparent that the ways in which the preemptive self defense provisions of NSS 2002 are exceptional are really less stark – less immediately destabilizing, and more dispositional than tactical – than many of its critics suppose. Expressed succinctly, the elements of continuity both within the US government and in terms of US foreign policy are at least as important as the elements of change. A caveat must be added. Critics are right to point out that the asserted right of preemption does offer a challenge to a keystone of law-based international order; and it is by no means certain that the few brief years since the publication of NSS 2002 are sufficient for a definitive judgment to be made of its effect on international affairs. In addition, some combination of events and crises together with the disposition evinced in NSS 2002 could yet manifest the worst fears of its critics. Therefore, although the research has shown that much more continuity exists than one might suppose – and the challenge posed by the claim to preemptive self defense is less novel than one might suppose – indications remain that serious dangers and concerns attend NSS 2002.

Conclusions

Having examined the research question by way of the structure described above, five principal findings stand out. In large part, the first three of these pertain to policy formulation *internal* to the US. The final two focus on broader implications for international security and international law.

1) Even though NSSs have more than rhetorical weight, they do not drive decisionmaking, procurement, or the nature of response to crises. Research and respondents indicate that although NSS documents sometimes attract a lot of international notice, it amounts to less than one might expect. Rather, NSS documents

are more broadly indicative of an administration's security posture – they are a *tour d'horizon*.

One way of ascertaining a government's actual commitment to its announced policies is whether significant resources have been devoted to implement those policies. If a government's actual approved budget matches its rhetoric as regards a certain program, it is rightly seen as indicative of concrete support for that program. Yet, it would be a mistake to base one's evaluation of government policies, its commitment to certain policy stances, and its disposition solely on whether or not corresponding line items may be found in that year's budget.

One reason for this, in terms of the US budget, is the enormous size of government expenditures and the duration of those ongoing programs that make up those costs. One prominent budget analyst pointed out that even when the US government supports a particular policy through the adoption or expansion of identifiable budget items, it sometimes amounts to little more than symbolic support. For example, a US administration which advocates the strengthening of its capability to meet certain types of threats might include in its budget recommendation an increase in funding for the rapid reaction elements of its military. However, even a large boost for discrete programs – in terms of the percentage increase over the previous year's budget – often amounts to "a tiny fraction of the US budget or even the national security budget".⁷⁰⁴ Thus rhetorical support for certain policies can be as good of a sign of government commitment as is the inclusion of particular items in the national budget.

⁷⁰⁴ Steve Kosiak, Interview, 08 Nov 2006.

Just as importantly, broad strategy documents are not so detailed as to allow individuals to draw specific budgetary guidance from them. The same ambiguity that makes the extrapolation of particular budget items difficult may at times be a boon to policymakers. As with ambiguity when making threats concerning the use of force (as discussed in Chapter Six), ambiguity affords government leaders with room to maneuver. In the US, each budgetary request made by the executive – be that through the annual process or in a more emergency ad hoc way – must be formulated in light of the current security, financial, and domestic social issues weighing on the nation's leadership at that time.

Just as policymakers are rightly loath to commit to particular diplomatic or military responses to threats that may present themselves in the future, they also are disinclined to commit to the particular form that future budget requests will take. This is not to say that policymakers will not present those future budget requests as congruent with any previously articulated strategies – they often do. Rather, they would understandably prefer to match particular responses to an announced general strategy, than to confine themselves to any predetermined response when forced in the moment to react to a range of unforeseen events or dangers.

Indeed the same function can be seen when considering what type of guidance can be gleaned from a National Security Strategy document when tailoring responses to particular crises that have developed after that Strategy was formulated. While the ability of politicians to devise specific strategies that address specific security problems is usually lauded by the public, it is important to point out that the ambiguity exhibited in broad strategy documents is both necessary and practical.

2) Within the brief historical span of NSS production, 2002 shows greater commonality with previous NSS reports and US strategy than the emphasis on preemption might suggest. The assertion of a preemptive right in NSS 2002 overshadows the other thematic parts of the Strategy, which actually account for the bulk of the document. But the assertion of preemptive force also shows great similarity with previous US administrations and reports.

As was shown in the exploration of NSS documents in Chapter Three, past changes that have occurred in US national strategy have tended to manifest themselves over a period of time, as with the successive refinements of containment fashioned during the Cold War. The so called Carter Doctrine, although not explicitly mentioning preemption, is certainly suggestive of it – it was meant to deter, and stood at least as a retaliatory threat. In the January 1980 State of the Union Address, President Carter noted that the 1979 Soviet invasion of Afghanistan presented serious concerns to the international community at large and the US in particular. The Soviet invasion posed humanitarian concerns, using an immense military capacity against a much weaker nation. Indeed it was nothing less than "colonial conquest", at once a continuation of Soviet tyranny and a return to the discredited project of colonialism. The invasion was also seen as a threat to stability and order, as destabilizing the international environment.

In addition to these significant concerns, the US perceived its own particular national security interests to be directly threatened by the Soviet move. The Soviet Union's movement of military forces into Afghanistan put them dangerously close to the Persian Gulf, and thus to a majority of the world's exportable oil. This fact seemed to count more than all others where the possible use of force by the US was concerned.

As President Carter pointed out,

The region which is now threatened by Soviet troops in Afghanistan is of great strategic importance: it contains more than two-thirds of the world's exportable oil... The Soviet Union is now attempting to consolidate a strategic position, therefore, that poses a grave threat to the free movement of Middle East oil... Let our position be absolutely clear: An attempt by any outside force to gain control of the Persian Gulf region will be regarded as an assault on the vital interests of the United States of America, and such an assault will be repelled by any means necessary, including military force.⁷⁰⁵

The other sections of NSS 2002 cover a variety of topics seen as affecting US security and offering opportunities for the US to constructively wield its influence, as was noted in the review of the Strategy in Chapter Four above. NSS 2002 is comprised of eight sections, leaving aside the Introduction and the document's accompanying transmittal letter. Of these eight sections, three deal explicitly with the US intention to work multilaterally, and the desirability of doing so. The use of multilateralism is viewed as advisable in order to increase US security in specific areas. These include the struggle to eliminate global terrorism and prevent future terrorist attacks from being carried out against the US and its allies; the attempt to reduce conflict around the world and increase regional stability; and engaging constructively with other great powers in order to develop "agendas for cooperative action". Other sections are less explicitly focused on multilateral initiatives but nonetheless pertain to subject areas long supported by the US. These areas include support for aspirational human rights, the promotion of global economic growth in line with US-style free market capitalism, the expansion of democracy alongside development around the world, and (with a more distinctly internal focus) the transformation of US national security apparatuses.⁷⁰⁶

⁷⁰⁵ United States. President Jimmy Carter (1977-1981), State of the Union Address [Delivered 23 January] [cited date as above].

⁷⁰⁶ United States. President George W. Bush (2001-2009), "The National Security Strategy of the United States of America," *passim*.

Even the section most expressly dealing with preemption, however, is not entirely at odds with previous NSS documents. For example, one must consider successive NSS documents issued by President Clinton. Both the NSS of 1999 and the NSS of 2000 assert that "[a]s long as terrorists continue to target American citizens, we reserve the right to act in self-defense by striking at their bases and those who sponsor, assist or actively support them."⁷⁰⁷ Further, while NSS reports published during the Clinton administration do not contain the word "preemption", neither is their disposition in stark contrast NSS 2002 — at least in terms of the use of force when the US perceives its vital interests to be threatened. Such vital interests are

...those of broad, overriding importance to the survival, safety and vitality of our nation. Among these are the physical security of our territory and that of our allies, the safety of our citizens, our economic well-being and the protection of our critical infrastructures. We will do what we must to defend these interests, including—when necessary—using our military might unilaterally and decisively.⁷⁰⁸

3) Individuals and personalities are more important to making the NSS formulation process and final form what it is, than is the process itself. As pointed out in Chapter Three, a published NSS document should be seen as a product influenced by international circumstances, the internal disposition of the administration, and the intended audiences and purposes of the policy. It is often true that "[a] Presidential strategy report can never be more than it really is, a statement of preference from the executive branch as to current, and perhaps future, grand strategy."⁷⁰⁹ Just as any process for producing NSS documents is contingent on the particular individuals

⁷⁰⁷ United States. President William Jefferson Clinton (1993-2001), "A National Security Strategy for a New Century," 14. These same words are also used in the following year's report. United States. President William Jefferson Clinton (1993-2001), "A National Security Strategy for a Global Age " (The White House, 2000).

⁷⁰⁸ United States. President William Jefferson Clinton (1993-2001), "A National Security Strategy for a New Century," 5.

⁷⁰⁹ Snider, "The National Security Strategy: Documenting Strategic Vision (Second Edition)," 15.

involved – perhaps because of that fact – the ability to assess such Strategy documents by drawing direct comparisons between them is limited.

The significance and impact of such documents can vary greatly, in both perceptual and in real terms. Individuals decide what drafting process to employ or eschew, which institutional or personal viewpoints to include or exclude. Our understanding of any NSS document is highly conditioned by the nature of the issuing administration, the assertiveness of the personalities associated with a Strategy's formulation, and the relative strengths of the individual agencies involved in the process (or disallowed from participating). There is not a regularized way of judging NSSs because there is not a static process by which they are produced across administrations.

In the case of NSS 2002, Philip Zelikow was the single person responsible for producing the working draft of the document. Yet this initial draft subsequently received a degree of interagency input:

The White House did seek input from other cabinet departments. This occurred in four ways. First we had the material that had already been assembled by State with some interagency input. Second, I reached out to the various offices within the NSC staff, since they were responsible for monitoring interagency views within their areas of responsibility. Third, I reached out personally to a few people at other agencies whom I felt could help... Fourth, Rice circulated the draft (I think after the President had taken a first look at it) directly to relevant cabinet principals to invite their comments. Several edits and contributions from the various secretaries were incorporated in the final text.⁷¹⁰

It is difficult to tease out personal and/or departmental interests from the finished document. However, the drafting process is not designed to screen them out, although of course it ensures that contributions do not overtly contradict each other or the overall message of the president.

⁷¹⁰ Zelikow.

However, the fact that individuals play such a central role in the formulation of strategy documents would suggest that institutional adherence to the NSS "message" may be less rigid than is supposed by readers of the finished product – especially when the broad strategy is applied to particular circumstances. Further, the production of an NSS is a good deal less directive than the title of the document – National Security Strategy – signals to many, especially those outside of policy-making circles. As one experienced respondent noted, he did not strive to become heavily involved in the drafting of NSS 2002 because he believed "... that documents like that [NSSs], at the end of the day, are useful public projections, but that they don't drive policy".⁷¹¹

4) Alarm over the US declaration of a preemptive right needs to be tempered by a recognition that the document itself evinces an awareness that the asserted right could have unwelcome consequences if adopted, or adapted, by other states. In addition, NSS 2002 makes plain that preemption is not a substitute for established forms of gaining and maintaining US security – and not only because the combination of terrorist groups and WMD comprise only one kind of threat the US faces. So the preemptive element of 2002 does not lock the US into an irrevocable course of action, or force a preemptive response to a perceived threat of a certain size or character.

After publication, the subsequent invasion of Iraq would first appear to validate the most alarmed reactions to NSS 2002. Although the administration of George W. Bush never explicitly invoked the preemption provisions NSS of 2002 to justify the 2003 invasion of Iraq, there is a *prima facie* case for linking the WMD-terrorist nexus in NSS 2002 with the strenuous efforts made by the administration to link Iraq with al Qaeda,

⁷¹¹ Miller.

and its accusations that Iraq was engaged in manufacturing weapons of mass destruction.

Evidence supplied by interviewees, and more recent publications by former members of the Bush administration and military historians, point to lines of thinking and strategic planning concerning Iraq that existed separately from and predated the production of NSS 2002. For example, in November 2001 – ten months before the publication of NSS 2002 – Secretary of Defense Rumsfeld directed US Central Command to review and update the military contingency plan for a war with Iraq.⁷¹² Rumsfeld in turn was acting at the behest of President Bush, who that same day had requested that war plans for Iraq be reassessed and updated as quietly as possible.⁷¹³ This review was begun immediately despite the stress it put on US Central Command, which was then prosecuting the war in Afghanistan that President Bush had ordered the month before.⁷¹⁴ Even at this early date President Bush viewed war with Iraq as a distinct possibility. Yet, while the updating of Iraq war plans appears to have begun just before NSS 2002 was starting to be drafted in winter 2001-2002, the two processes were completely separate; "Iraq issues played no part whatever" in the drafting of NSS 2002.⁷¹⁵

In his memoir, former Director of Central Intelligence George Tenet writes that he is unsure when war with Iraq became inevitable. However, members of the Bush administration expressed particular interest in the possibility of military action against

⁷¹² Michael R. Gordon and Bernard E. Trainor, *Cobra II: The inside Story of the Invasion and Occupation of Iraq*, 1st ed. (New York: Pantheon Books, 2006) 24.

⁷¹³ Bob Woodward, *Plan of Attack* (New York: Simon & Schuster, 2004) 1-2.

⁷¹⁴ *Ibid.* 8.

⁷¹⁵ Zelikow.

Iraq even before 11 September 2001.⁷¹⁶ After 11 September, Deputy Secretary of Defense Paul Wolfowitz and individuals in the Office of the Vice President were extremely interested in any information that might be used to link the Iraqi government with members of al Qaeda. In his opinion, Tenet believes the primary reason for the US invasion of Iraq was to install a democratically elected Iraqi government that would act as a catalyst for democratic change in the Middle East, rather than to preempt an Iraqi WMD threat.⁷¹⁷

The kind of strategic thinking that imbued the Bush White House informed both NSS 2002 (prefigured in the West Point speech) and the invasion of Iraq, as one might expect. However, it does not follow that NSS 2002 has the authoritative standing to have driven a strategic initiative of such moment. As interviewees made plain, NSSs are not directive (notwithstanding their importance to strategic military planning purposes, such as production of the National Military Strategy). They signal disposition rather than determined courses of action. They signal long-term strategy rather than specific direction for foreign policy actions. In other words, one must guard against "post hoc, ergo propter hoc".

5) The consideration of the changed security environment in Chapter Seven – taken together with the evaluation of international law in Chapter Eight – raises an important point, at least indirectly. That is, that Article 2.4 and Article 51 are probably inadequate in terms of the 21st century security environments. Some have argued that the Geneva Convention safeguards must be updated and strengthened for increased effectiveness

⁷¹⁶ Ron Suskind, *The Price of Loyalty: George W. Bush, the White House, and the Education of Paul O'Neill* (New York: Simon & Schuster, 2004) 70-75. Indeed, former Secretary of the Treasury Paul O'Neill was surprised to find the first full NSC meeting of the George W. Bush administration on 30 January 2001 almost entirely devoted to Iraq. O'Neill remembers thinking to himself after the meeting, that Iraq "...was now the administration's focus, that much was already clear." See 75.

⁷¹⁷ George Tenet and Bill Harlow, *At the Center of the Storm: My Years at the CIA*, 1st ed. (New York: HarperCollins, 2007) 321.

protections in the 21st century; the same is true of UN Charter law as concerns the use of force.⁷¹⁸

The difficulty is that neither Article 2.4 nor Article 51 exists to be facilitative. They are prohibitive; they exist to maintain order in an anarchic state system. The essential prohibition on wars of adventure is no less important today than it was in 1945. But, as indicated in Chapter Seven, the confluence of WMD and terrorism presents states with a unique security challenge that has come to the fore only relatively recently. The willingness of non-state actors to inflict mass civilian casualties, and diminishing impediments to the production of WMD – especially biological agents – makes the possibility of such an attack at least as worrying as acts of aggression between states.

As suggested in Chapter Eight, when a state perceives its survival – or a core component of its security – as threatened, it may well act proactively. Legal and diplomatic consequences of action will be dealt with after the fact. When faced with evidence that a terrorist attack utilizing WMD is being planned, putting at risk the lives of a large number of citizens, it may be quite difficult for a state to adhere to a prohibitive reading of self-defense under Article 51 of the UN Charter. While one can not predict future developments, the *increasing* potential of groups to mount mass casualty attacks argues against a *decreasing* likelihood of such attacks taking place. This kind of threat appears, then, to remain present for some time – and to imperil other states in addition to the US.

One of the problems involved when focusing so powerfully on US capability and intentions is that it distracts attention from a developing security issue that besets more

⁷¹⁸ Jack L. Goldsmith, *The Terror Presidency: Law and Judgment inside the Bush Administration* (New York: W.W. Norton & Co., 2007) 121.

than the US, and for which a rational response to a real threat will almost certainly be illegal. The prohibition of aggression in the UN Charter exists to protect individual states as well as the stability of the system as a whole. A plausible case can now be made that the potential for terrorist WMD attacks might well require preemptive self-defense to be available as an option. As argued above, there is nothing in the UN Charter that requires states to subject themselves to reckless self-endangerment. So there is a conundrum: how do we maintain an international legal order that protects sovereignty but does not prevent preemptive action against very considerable threats, such as the use of WMD by terrorist groups?

Research Implications

In addition to these five principal findings, two salient research implications stand out: the first lego-political in character, the second normative.

1) One of the most unfortunate aspects of the US invasion of Iraq is it diminishes attention from the reality that the WMD-terrorist nexus is a very real possibility. The weighty difficulties that were created by sending military forces into Iraq have distracted from the problem posed by potential terrorist attacks utilizing WMD. However, those difficulties have certainly not made this problem disappear. The WMD-terrorist nexus will remain a compelling challenge, even if some strategic thinkers remain focused on threats posed by states controlled by autocratic regimes, perhaps even a slew of new "rogue" states.⁷¹⁹

⁷¹⁹ Neoconservative Robert Kagan has recently argued that democratic expansion will be extremely difficult if not impossible as resilient autocratic regimes across the world seem poised to assert themselves anew in the 21st century. Robert Kagan, *The Return of History and the End of Dreams*, 1st ed. (New York: Knopf, 2008). While democracy seemed to enjoy an inexorable rise in the years following

As pointed out in Chapter Seven, a crucial point to remember is that frighteningly lethal agents need not be weaponized to the degree that an industrialized nation might in a military WMD production facility. This fact poses the risk or even likelihood that a WMD attack will emanate from a sub-state group or individual rather than a state. When one considers this together with dissemination of knowledge unprecedented in human history, even a single field of knowledge such as synthetic biology provides the practical basis for horrifying weapons. The relatively straightforward modification of mousepox in order to infect humans with a virus whose lethality approaches 100%, as described in Chapter Seven, is but one example.

One of the unfortunate and less noted negative outcomes of the invasion of Iraq, is that it consolidates alarm about the declared policy of preemption in a way – and to a degree – that masks the rationale that drove it in the first place. The fact that there was no Iraq-al Qaeda connection, and the fact that there were no WMD in Iraq, conveys an understanding that NSS 2002 drove a more generalized preemptive disposition on the part of the US (the qualification in the document notwithstanding). The most vociferous critics of NSS 2002 will be vindicated by the invasion of Iraq, not least because the al Qaeda connection and WMD were not there. But the WMD-terrorist connection remains just as plausible or even likely, and so the peril has not been dispelled.

The likelihood that this peril will remain a perennial problem results in significant legal implications. These implications are distinct from but not unlike those identified in the International Commission on Intervention and State Sovereignty (ICISS) final report,

the dissolution of the Soviet Union, even Kagan does not see the recent US rhetoric and military policy designed to further democratic expansion around the world as successful.

The Responsibility to Protect (R2P).⁷²⁰ The ICISS effort represents the intellectual community's attempt to engage with the serious conundrum posed by humanitarian intervention. R2P identified "large-scale loss of life" and "ethnic cleansing, underway or anticipated" as prime examples of the points at which sovereignty should yield to international responsibility.

While sovereignty is viewed as crucial to protection of human rights (as the state is the only institution who can sustain protection on an ongoing basis), it is also viewed as bounded rather than absolute. Recognizing that the UN Charter's enshrinement of sovereignty often came into conflict with other humanitarian concerns and legal obligations, R2P advocated a consensual revision of the understanding of sovereignty. That is, R2P proposed the basis upon which the international community should conceptualize the next evolutionary step of international law toward a more limited understanding of sovereignty.

NSS 2002 itself had an impact on this discussion about the use of force in the future, leading some to believe re-strengthening of sovereignty to be more important than a bolstering of a R2P right to intervene.⁷²¹ Leaving aside this direct linkage between NSS 2002 and R2P, one can discern similarities in the issues they each engage with. Both attempt to bridge the divide between prohibitive law (protection of sovereignty in the case of R2P, prohibition on the use of force in NSS 2002) with other pressing moral and legal obligations (the alleviation of mass human suffering in the case of R2P, the prevention of mass human casualties in the case of NSS 2002). Therefore, the underlying question implicit in NSS 2002 is, if not preemption then what? What

⁷²⁰ International Commission on Intervention and State Sovereignty, *The Responsibility to Protect: Report of the International Commission on Intervention and State Sovereignty*.

⁷²¹ Thomas G. Weiss, "The Sunset of Humanitarian Intervention? The Responsibility to Protect in a Unipolar Era," *Security Dialogue* 35, no. 2 (2004): 143.

response is most appropriate to a threat such as that posed by the WMD-terrorist nexus? And if preemption threatens the legal order, then how should a responsible actor behave?

Thus, there is serious legal research to be done on how the international legal limits to self-defense can at the same time retain their coherence and yet accommodate responses to threats that were not foreseen when they were drafted. As touched upon in Chapter Eight, this should include how "imminence" is to be defined as it touches upon Article 2.4 and Article 51. This work, which should extend to international norms as well as codified international law, might usefully be linked to the humanitarian intervention debate and recent attempts to forward the matter through the R2P. The R2P model should likely not be adapted directly to address WMD and terrorists, but may prove useful as it also touches on the heart of international law, Article 2.4.

2) The policy of preemption featured in NSS 2002 can very easily generate a "normative wave" that will be highly undesirable and difficult to control. Such a development, in the absence of agreed legal understanding, would only reinforce the need for additional lego-political research of the sort described above. Instances of preemption both prior to, and subsequent to, the publication of NSS 2002 argue that the document may have contributed to, consolidated and catalyzed such a normative movement. This is indicated by large scale acts of preemption such as the 1981 Israeli bombing of the Osirak nuclear facility, and the more recent Israeli bombing of an alleged nuclear facility in Syria.⁷²² Small scale acts of preemption, such as cross-border

⁷²² Mark Mazzetti and Helene Cooper, "An Israeli Strike on Syria Kindles Debate in the U.S.," New York Times, 10 Oct 2007.

US incursions and use of armed predator drones into Yemen, Pakistan and Syria add to the evidence.⁷²³

The expressed hope in NSS 2002, that US use of preemption will not be used as a pretext for aggression, implicitly recognizes that other states might employ preemption in extreme circumstances or employ it as a policy disposition. Whether an apparent increase in cross-border preemption signals a more general adoption of preemption by US security forces or the US government needs to be researched further, as does whether such an increase is likely to remain confined to the US. In other words, interesting questions exist regarding the extension of the preemption strategy laid out in NSS 2002. There is interesting work to be done about the level at which such incursions have been authorized. At what level has approval for cross border action been given? Is it at the field commander level? Does such approval depend on circumstance? The bounds appear to be extending.

Unilateral proclamations often have normative effects that are unforeseen and unintended – and these can be very considerable:

Shortly after World War II, a unilateral move by the U.S. in the Truman Proclamations of September 1945, declaring ownership of the continental shelf seabed resources and announcing a policy for extended US jurisdiction of coastal fisheries far out to sea beyond the then dominant three mile limit, diplomatically backfired for the U.S. as the Proclamations resulted in a bevy of national claims by other nations. These nations claimed jurisdiction or even sovereignty over waters as much as 200 miles off their coasts – a development fraught with negative consequences for U.S. naval operations, shipping, and distant water fishery interests. The next three decades of U.S. oceans diplomacy were dedicated to containing this explosion of offshore claims.⁷²⁴

⁷²³ AI (Amnesty International), AI Report 2003 [cited 12 Feb 2005]; available from <http://web.amnesty.org/report2003/usa-summary-eng>. See also Candace Rondeaux, "Airstrike Kills 12 in Northwest Pakistan," Washington Post, 08 Nov 2008. See also Ernesto Londoño, "US Airstrike Allegedly Kills 8 inside Syria," Washington Post, 27 Oct 2008.

⁷²⁴ David D. Caron and Harry N. Scheiber, "The United States and the 1982 Law of the Sea Treaty," ASIL Insight 12, no. 4 (2007).

It is difficult to determine if NSS 2002 has had a wider normative effect, and has begun to facilitate a similar disposition in other states. One important and pressing line of investigation is to examine the US – Israel – Iran nexus in which US and Israeli shared concerns about Iranian development of WMD must be seen in the light of long-standing Israeli determination to act preemptively against perceived nuclear threats.⁷²⁵ Current developments, together with the professed US willingness to use preemption, is particularly important in this case. Note for example, that

Iranian Defence Minister Ali Shamkhani has warned that Iran might launch a pre-emptive strike to prevent an attack on its nuclear facilities. He said this in an interview with Aljazeera TV. . . . 'We will not sit (with arms folded) to wait for what others will do to us. Some military commanders in Iran are convinced that preventive operations which the Americans talk about are not their monopoly,' Shamkhani said when asked about the possibility of a US or Israeli strike against Iran's nuclear facilities.⁷²⁶

Normatively, the US adoption of a policy of preemption will not cause Israel to feel *more* constrained to preempt WMD threats. Further, shared US-Israeli concerns give rise to additional questions: Is the US restraining Israel from taking preemptive action against Iran? Will the US use Israel *to* take preemptive action against Iran? This attitude is unlikely to be confined to Iran. Monitoring such developments is quite important.

⁷²⁵ Michael R. Gordon and Eric Schmitt, "US Says Israeli Exercise Seemed Directed at Iran," New York Times, 20 Jun 2008. See also Jonathan Steele, "Israel Asked US for Green Light to Bomb Nuclear Sites in Iran," Guardian, 25 Sep 2008. See also Yaakov Katz, "IDF Preparing Options for Iran Strike," Jerusalem Post, 04 Dec 2008. See also MacAskill, "US Claims North Korean Link to Israeli Bombing of Syria." See also Hersh, "A Strike in the Dark: What Did Israel Bomb in Syria?."

⁷²⁶ Aljazeera, Iran May Strike If Sites Threatened (Aljazeera.net, 14 Aug 2004 [cited 28 May 2005]); available from <http://english.aljazeera.net/NR/exeres/B19236FC-6A23-4FB4-B499-E7AF900949DE.htm>.

It may be that the NSS 2002 will appear most dated, soonest, with making the link between terrorists and rogue states; the simple link between terrorists and WMD may well be more lasting. Preemptive self defense is unlikely to carry the same type of repercussions when directed against nonstate actors than against nation states.

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